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

FORM 10-K

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

For the fiscal year ended December 31, 2019

OR

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

For the transition period from _____ to _____

Commission file number 1-37648

OncoCyte Corporation
(Exact name of registrant as specified in its charter)

California	**27-1041563**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

15 Cushing
Irvine, California 92618
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code **(949) 409-7600**

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

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock, no par value	OCX	NYSE American

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

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

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

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

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

The approximate aggregate market value of shares of voting common stock held by non-affiliates computed by reference to the price at which shares of common stock were last sold as of June 30, 2019 was approximately $47.0 million. Shares held by each executive officer and director and by each person who beneficially owns more than 5% of the outstanding common stock have been excluded in that such persons may under certain circumstances be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

As of March 4, 2020, there were outstanding 62,471,122 shares of common stock, no par value.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's Proxy Statement for its 2020 Annual Meeting of Shareholders are incorporated by reference in Part III.

OncoCyte Corporation
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PART I

Certain statements contained herein are forward-looking statements, within the meaning of the Private Securities Litigation Reform Act of 1995, including, but not limited to, statements pertaining to future financial and/or operating results, future growth in research, technology, clinical development, and potential opportunities for Oncocyte, along with other statements about the future expectations, beliefs, goals, plans, or prospects expressed by management constitute forward-looking statements. Any statements that are not historical fact (including, but not limited to statements that contain words such as "anticipate," "believe," "can," "continue," "could," "estimate," "expect," "intend," "may," "plan," "project," "seek," "should," "strategy," "target," "will," "would") should also be considered to be forward-looking statements. Forward-looking statements involve risks and uncertainties, including, without limitation, risks inherent in the development and/or commercialization of potential products, uncertainty in the results of clinical trials or regulatory approvals, need and ability to obtain future capital, and maintenance of intellectual property rights. Actual results may differ materially from the results anticipated in these forward-looking statements and as such should be evaluated together with the many uncertainties that affect the businesses of Oncocyte, particularly those mentioned in this Report under "Risk Factors". Except as required by law, Oncocyte undertakes no obligation to update any forward-looking statements to reflect events or circumstances after the date of such statements.

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

- *the timing and potential achievement of future milestones;*
- *the timing and our ability to obtain and maintain coverage and reimbursements from the Centers for Medicare and Medicaid Services and other third-party payers;*
- *our plans to pursue research and development of diagnostic tests;*
- *the potential commercialization of our diagnostic tests;*
- *the timing and success of future clinical trials and the period during which the results of the clinical trials will become available;*
- *the potential receipt of revenue from future sales of our diagnostic tests or tests in development;*
- *our assumptions regarding obtaining reimbursement and reimbursement rates;*
- *our estimates regarding future orders of tests and our ability to perform a projected number of tests;*
- *our estimates and assumptions around patient populations, market size and price points for reimbursement for our diagnostic tests*
- *our estimates regarding future revenues and operating expenses, and future capital requirements;*
- *our intellectual property position;*
- *the impact of government laws and regulations; and*
- *our competitive position.*

References to "Oncocyte," "our" or "us" mean OncoCyte Corporation.

The description or discussion, in this Form 10-K, of any contract or agreement is a summary only and is qualified in all respects by reference to the full text of the applicable contract or agreement.

INDUSTRY AND MARKET DATA

This Annual Report ("Report") on Form 10-K contains market data and industry forecasts that were obtained from industry publications, third party market research and publicly available information. These publications generally state that the information contained therein has been obtained from sources believed to be reliable. While we believe that the information from these publications is reliable, we have not independently verified such information.

This Report also contains estimates and other statistical data made by independent parties and by us relating to market size and growth and other data about our industry. We obtained the industry and market data in this Report from our own research as well as from industry and general publications, surveys and studies conducted by third parties, some of which may not be publicly available. Such data involves a number of assumptions and limitations and contains projections and estimates of the future performance of the industries in which we operate that are subject to a high degree of uncertainty. We caution you not to give undue weight to such projections, assumptions and estimates.

PRELIMINARY NOTE ABOUT OWNERSHIP OF OUR COMMON STOCK

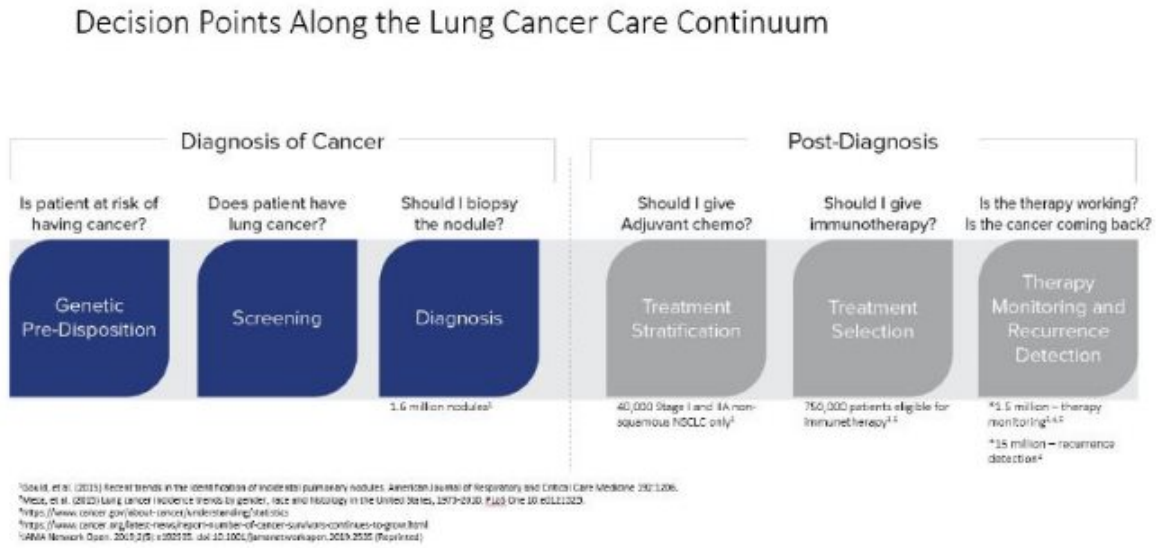
As of March 4, 2020, we had 254 shareholders of record and there were 62,471,122 shares of our common stock outstanding, of which 6,041,154 shares were held by our former parent Lineage Cell Therapeutics, Inc. ("Lineage") (formerly known as BioTime, Inc.). Beginning on February 17, 2017, the shares held by Lineage accounted for less than 50% of our total common stock outstanding. Accordingly, effective February 17, 2017, we are a no longer a consolidated subsidiary of Lineage and as of the date of this Report, Lineage holds less than 10% of our total common stock outstanding. See Note 1 of our financial statements included elsewhere in this Report.

Item 1. Business

Overview

Oncocyte is a molecular diagnostic company focused on developing and commercializing proprietary laboratory-developed tests ("LDTs") to serve unmet medical needs across the cancer care continuum. Our tests aim to provide actionable information to physicians and patients at critical decision points to optimize diagnosis and treatment decisions, improve patient outcomes, and reduce overall cost of care. We have prioritized lung cancer as our first indication. Lung cancer remains the leading cause of cancer death in the United States, despite the availability of molecular testing and novel therapies to treat patients.

Through strategic asset and business acquisitions during 2019 and early 2020, Oncocyte has gone through a transformation from a single product company to a company with a wider battery of laboratory-developed tests that physicians may use at different critical decision points in cancer diagnosis and treatment to support their decision-making. We believe that our effort to provide particular tests for certain key decision points along the continuum of diagnosis shown below will mitigate the inherent risk of being a single product company and should lead to greater revenue opportunities in rapidly emerging markets in lung cancer and beyond.



Key Clinical Questions Our Product Offerings Will Address

Although we believe our approach may have utility across other solid tumors, we have prioritized lung cancer, which remains the leading cause of cancer death in the United States and the rest of the world, making it one of the largest molecular diagnostic market opportunities. Our proprietary diagnostic tests are focused on the interrogation of RNA signatures from diagnostic tissue or peripheral blood samples and target key clinical questions that are critical to better management of lung cancer, from detection through treatment of cancer. As we expand the scope of our offerings towards the goal of addressing several key clinical decision points in lung cancer, we remain technology agnostic, and aim to find the best approach that addresses the needs of patients and physicians in a manner consistent with good health economic outcomes.

Our diagnostic tests are novel and proprietary. We leverage our significant bioinformatics expertise in algorithm development and validation to analyze functional gene expression and other biological data, to develop tests that address significant clinical challenges that have not been successfully addressed by currently available technologies. At the same time our tests are run on instruments with a high global installed base enabling decentralization of testing to labs worldwide.

In development is DetermaDx™ (formerly known as DetermaVu™), a proprietary non-invasive blood-based test developed in our laboratory that measures biomarkers of the immune system's response to cancer to help a physician determine whether lung nodules detected through imaging are likely benign. Our goal in developing DetermaDx™ is to reduce the number of unnecessary, invasive, risky and expensive diagnostic biopsy procedures. A DetermaDx™ result suggesting that a patient's lung nodule is likely benign, would give greater confidence to a physician deciding whether to manage a patient by "watch and wait", radiologic follow-up for lung nodule change in size over time. DetermaDx™ was CLIA validated in the fourth quarter of 2019, and is currently undergoing a large clinical validation, which if successful will move the product towards commercial launch.

As part of the new strategy to become relevant in the broader diagnostic continuum of lung cancer, we made an investment in Razor Genomics, Inc. ("Razor") during September 2019 and acquired a license to complete development and to commercialize Razor's test for early stage lung cancer management. This test, which we call DetermaRx™, is the only test available that provides information to physicians to help identify patients with a high-risk for recurrence of early-stage, operable adenocarcinoma of the lung. By offering patients at high-risk of recurrence chemotherapy, published studies demonstrated that decision-making supported by DetermaRx™ significantly impacted survival rates for patients with early stage lung cancer. DetermaRx™ received a proposed positive coverage decision from the Centers for Medicare and Medicaid Services ("CMS") in August 2019. While DetermaRx™ is commercially available now, we expect to receive a final pricing decision for DetermaRx™ from CMS during the first half of 2020, which will make Medicare reimbursement available and should enable us to become a revenue stage company.

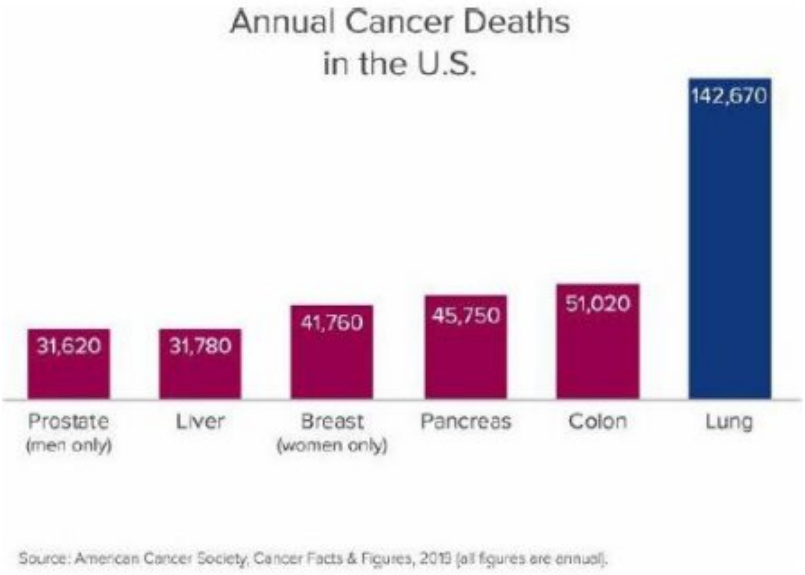
In January 2020, we acquired Insight Genetics, Inc. ("Insight") which significantly expanded our product pipeline by adding DetermaIO™, a proprietary gene expression assay with promising data supporting its potential to help identify patients likely to respond to checkpoint inhibitor drugs. This new class of drugs modulate the immune response and show activity in multiple solid tumor types including non-small cell lung cancer (NSCLC), and triple negative breast cancer (TNBC). Insight also has an existing revenue generating pharma service business that offers pharmaceutical companies comprehensive, multi-analyte test development and clinical trial services at its CLIA laboratory. The breadth of expertise at our Insight facility includes DNA and gene expression (RNA) test development, analysis and clinical testing for clinical studies and trials across multiple platforms including polymerase chain reaction (PCR) and next generation sequencing (NGS) including whole transcriptome analysis at the RNA level and whole exome analysis at the DNA level for tumor mutational burden (TMB) and genomic profiling for treatment selection.

On the pharmaceutical services side, there are approximately 3,000 PD-1/PD-L1 ongoing clinical trials that are expected to recruit over 500,000 patients. This represents a potential $1 billion market opportunity for immune-therapy clinical trial services alone. It is well established that multi-analyte testing is more sensitive than testing a single analyte. Our multi-analyte testing capabilities combining DNA and RNA should make us an attractive service provider to biopharmaceutical companies for biomarker discovery and companion diagnostic development compared to DNA based testing alone.

Business Strategy

Why Lung Cancer?

In the United States, approximately 1.8 million people were diagnosed with cancer in 2019. Lung cancer accounts for about 13% of all new cancer cases equating to approximately 228,000 patients being diagnosed each year. Around 142,000 people died from lung cancer in 2019 making it the leading cause of cancer death. There is a significant unmet need to reduce mortality from lung cancer through increasing awareness of screening opportunities, early diagnosis, and optimal and timely treatment and monitoring of diagnosed patients. By providing physicians and patients with actionable and timely information to help them make critical care decisions, Oncocyte aims to improve lung cancer outcomes through improved diagnosis, risk management, treatment, and monitoring.



We are building Oncocyte to be a "one stop lab" for lung cancer diagnosis and management. This allows for efficient commercialization with a sales team that can target lung cancer focused physicians including pulmonologists, thoracic surgeons and medical oncologists. This is becoming very important as patient management decisions are increasingly made in cross-specialty tumor boards. Today, the testing needs of physicians managing lung cancer are met by several specialty reference labs, meaning the provider must split the sample and send each one off to a different lab for the various tests they need to accurately diagnose and select a therapy. Not only does this process consume a large amount of sparse patient biopsy sample risking depletion of the sample before completing all testing, but also the process can take up to three weeks for the compilation of all the results to make it back to the treating physician to inform therapeutic decision making.

Oncocyte's consolidation of testing modalities will allow the judicious use of limited patient biopsy samples, and return results to the ordering physician within ten days, on time for selecting the best treatment regimen. All too often in the existing paradigm, patients are committed to a therapeutic approach before all the information is returned from the different clinical labs. Our survey of cancer physicians indicates a significant demand for both attributes, consuming a minimal portion of patient biopsy sample and faster turnaround of testing results. We believe that the proprietary tests in our product pipeline will allow Oncocyte to be relevant in earlier stage decision making giving us unique access to the sample "tumor block" from the beginning of the diagnostic process, thus allowing us to offer other follow up tests without physicians needing to send patient samples to another laboratory.

Strategically Addressing Unmet Clinical Questions Across the Lung Cancer Care Continuum

We are developing molecular diagnostics that provide physicians information to enable the timely diagnosis and treatment of lung cancer with the ultimate goal of transforming this deadly cancer to a curable or chronic disease. Although we may refer to our tests as "diagnostic tests," each test was developed in a CLIA-certified laboratory and will be performed in our CLIA-certified laboratories in Brisbane, California and Nashville, Tennessee. Our laboratory-developed tests are intended to support and help inform physician decision-making, but are not themselves diagnostic or prescriptive of treatment decisions.

DetermaDx™ (formerly known as DetermaVu™) –Early diagnosis of lung cancer

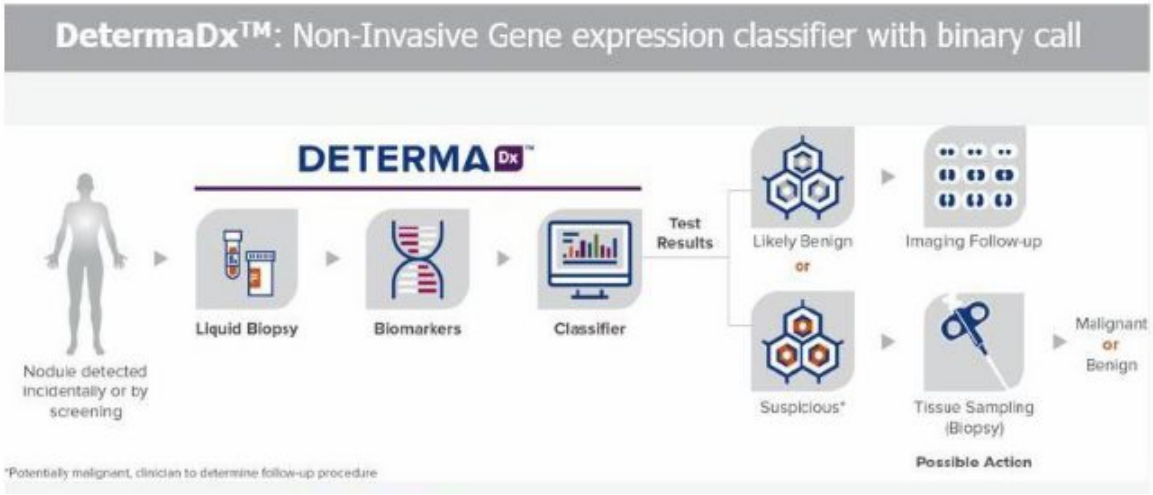
Oncocyte is developing DetermaDx™, a proprietary non-invasive blood-based test that measures biomarkers of the immune system's response to cancer to help determine whether lung nodules detected through imaging are likely benign. Our goal in developing DetermaDx™ is to reduce the number of unnecessary invasive, risky and expensive diagnostic biopsy procedures.

Early stage lung cancer may appear as suspicious nodules on a CT scan. The landmark National Lung Screening Trial (NLST) showed that screening with low dose CT (LDCT) scans resulted in a 20% reduction in lung cancer–related death. This resulted in the implementation of a screening program with regular LDCT scans for high-risk individuals, primarily heavy smokers. However, more than 75% of nodules detected in the NLST study were not malignant, i.e., benign. A study published in CHEST 2015 reported that in clinical practice even in patients with larger nodule sizes in the 8mm to 20mm range only one-quarter of the nodules biopsied were malignant. This shows that a significant population of patients with benign nodules undergo unnecessary invasive diagnostic procedures including a biopsy, such as a bronchoscopy or needle biopsy, or surgery. Lung biopsies are risky and dangerous, as some tumors in the lung are incredibly difficult to access without causing damage to the lung itself. The overall adverse event rate for biopsy and similar invasive procedures in patients with lung nodules was 22% for patients 55 to 65 years of age, and 24% for Medicare eligible patients who are 65 years of age or older. According to a recent JAMA publication, the cost of complications ranges from $6,000 to $56,000. So, while LDCT scans are beneficial in diagnosing lung cancer early, there is an unmet medical need for a non-invasive blood test to help identify patients whose nodules are likely benign and can be spared risky and invasive biopsy procedures. Our DetermaDx™ test in development seeks to address this unmet need.

More than 1.6 million suspicious lung nodules are detected annually via screening or incidentally, a number that is expected to increase as the adoption of screening increases. Using current clinical practice guidelines, physicians are faced with the dilemma of how to manage these patients, as the majority of these nodules are benign, but there are no clinical imaging features that clearly identify the malignant nodules.

Nodule size is one predictor of malignancy along with other factors such as patient age, nodule shape, nodule location, and smoking status. The Mayo Clinic developed a risk model using these clinical factors to help to guide physicians in the treatment of lung nodules. Unfortunately, the majority of nodules fall in an intermediate risk category, leaving physicians without guidance on whether the nodules are benign or malignant. To help provide guidance, Lung-Rads and Fleishner guidelines were developed. These guidelines recommend surveillance when nodule size is less than 8mm. Nodule sizes greater than 30mm are considered to be "masses" and warrant a biopsy. Treatment of nodules measuring 8mm and 30mm remains the biggest diagnostic dilemma to physicians, as guidelines are not prescriptive in this size range. The initial intended use for DetermaDx^{TM} will be to help inform whether a nodule is likely benign in patients with a nodule size of 8mm to 22mm. Our survey of physicians and analysis of practice patterns in over 3,000 U.S. subjects show that the 8mm to 22mm nodule size range is the one in which the most unnecessary invasive biopsy procedures on a benign nodule are performed. This need is further supported by other surveys reporting a 54% biopsy rate, while only 24% of the biopsied nodules were malignant. The adverse consequence for patients who have a biopsy of a benign nodule is that more than 22% of all lung biopsy patients experience adverse events as a result of the procedure.

We announced the completion of R&D Validation of DetermaDx™ in early 2019, and we completed CLIA Validation in early 2020. CLIA Validation demonstrates that the full assay system utilized in our CLIA certified lab in Brisbane, California, run by our staff at that laboratory, and on the analytically validated instrumentation, provides the same results on clinical samples as those obtained in the R&D Validation stage of assay development. We are on plan with the Clinical Validation study of DetermaDx^{TM}, with an expected completion date at the end of the second quarter of 2020. In our Clinical Validation study, more than 400 patient samples are being assayed in a blinded manner in our CLIA lab and the performance of the full assay system will be assessed against clinical diagnosis to show how our laboratory-developed test is likely to perform in clinical practice. When completed, this clinical validation will be one of, if not the largest, validation cohort for a blood test for this intended use. In general, tests that have been validated on large patient populations are deemed more trustworthy by physicians for clinical use. If our Clinical Validation study of DetermaDx^{TM} confirms performance that is impactful to patient care, we plan to initiate marketing the test to oncologists and surgeons.



The clinical utility and economic impact of DetermaDx^{TM} stems from the its potential to provide information that could provide re-classification of a significant number of lung nodules in the 8mm to 22mm size range as likely benign. Those patients can avoid the risky and costly invasive biopsy procedure by being routed to surveillance with subsequent LDTC scans, which is the standard practice for nodules less than 8mm in size which are considered low risk nodules by guidelines today.

The 500,000 annual United States patient population with lung nodules in the 8mm to 22mm size range represents a potential $1.75 billion market opportunity based on our projected reimbursable pricing model for DetermaDx™. In our cohort we have observed invasive diagnostic procedures being performed on smaller nodules of 6mm to 7mm in size. Expansion of our clinical studies into this smaller nodule size range would add another 300,000 patients or a potential additional $1 billion to the market opportunity for this test.

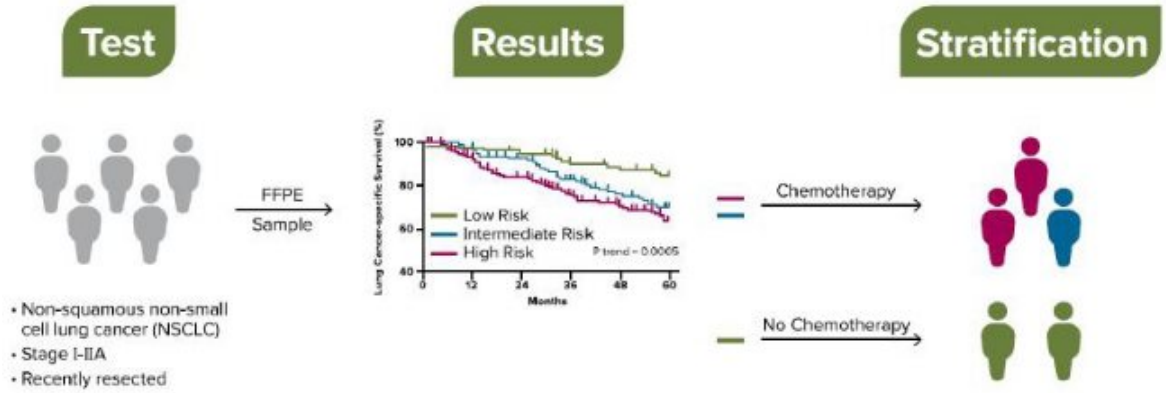
Upon successful publication of the Clinical Validation results, we will prepare for test commercialization including seeking CMS approval of Medicare reimbursement for the test. We expect to primarily market DetermaDx™ to pulmonologists, but patients with lung nodules sometimes may be routed directly to surgeons who will be a common target customer base for both DetermaRx™ and DetermaDx™.

DetermaRx™ –Treatment selection in early stage lung cancer

Oncocyte's first commercially available laboratory-developed test is DetermaRx™, the only predictive molecular test for early stage adenocarcinoma of the lung. This gene expression-based test provides information that a physician can use to help identify early-stage, surgically resected patients with Stage I and IIA lung cancer (NSCLC) who are at high-risk of recurrence and may benefit from chemotherapy.

NSCLC of the lung is the most common type of lung cancer accounting for 80-85% of incidence. Survival rates for patients diagnosed at an early stage are significantly higher than those for patients whose lung cancer is diagnosed at an advanced stage such as Stage III or Stage IV. Surgery is the standard of care for patients diagnosed with early stage (Stage I and Stage IIA) lung cancer. Yet even after complete surgical resection, between 30% to 50% of patients with early stage NSCLC have a recurrence of the disease. Trials of chemotherapy treatment in early-stage disease have been inconclusive as to whether they improve outcomes in un-stratified patients. Current guidelines suggest risk stratification and use of adjuvant (post-surgery) chemotherapy in "high-risk" patients. However, the recommendations for assessment of risk are subjective, and lack clinical studies that validate their usefulness in informing the use of chemotherapy.

DetermaRx™ is a 14-gene molecular stratification test performed on surgically resected tissue and is indicated for patients with Stage I and Stage IIA NSCLC to help determine who may benefit from adjuvant chemotherapy. Typically, thoracic surgeons or medical oncologists order the test after surgical resection. These surgical samples are formalin fixed, and paraffin embedded (FFPE). We receive blocks or scrolls of FFPE samples for testing in our CLIA-certified laboratory. A test report is generated classifying patient risk of recurrence and returned to the ordering physician within 10 business days. This turnaround time enables the treating physician to have the report in time for discussion of a treatment plan with the patient, usually a month after surgery.



We believe that there is an annual U.S. market opportunity of 40,000 patients or $140 million for DetermaRx™ based on our projected reimbursable pricing model. This market is expected to grow as high-risk screening recommendations are adopted, resulting in more patients being screened through LDCT scans and diagnosed at an early stage.

DetermaRx™ has been validated in two independent cohorts with close to 1,400 patients and test data has been published in top-tier peer reviewed publications including Lancet Oncology, JAMA, and the Journal of Thoracic Oncology. Importantly, the impact of the use of chemotherapy in high-risk patients was demonstrated in a paper published in Clinical Lung Cancer in 2017. CMS has delivered a proposed positive coverage decision for DetermaRx™, and we are awaiting a final coverage and pricing decision, which is important for commercialization because approximately 70% of patients for whom the test is indicated are eligible for Medicare coverage.

We are initiating a randomized prospective definitive clinical trial randomizing molecular high-risk patients to adjuvant chemotherapy or standard of care in order to gather the highest level of evidence supporting the inclusion of the DetermaRx test into national guidelines, which we believe will make the test the standard of care for all patients with Stage I and IIA non-squamous NSCLC.

DetermaIO™ –Immunotherapy treatment selection in advanced lung cancer

For patients diagnosed with advanced cancer, immunotherapies, particularly checkpoint inhibitors targeting PD-1 and PD-L1, have emerged as a novel drug class that helps recruit the body's immune system to attack the growing tumor. Pharmaceutical companies are investing heavily in this space, with hundreds of clinical trials ongoing, and a number of drugs already approved for several indications, including NSCLC. A recent article published by the Journal of the American Medical Association estimated that in the United States 750,000 patients per year are eligible for immunotherapy. We believe, based on our projected reimbursable pricing model, that this represents over a potential $2 billion market opportunity for a test that can reliably predict which cancer patients are likely to respond to immunotherapies.

Through the acquisition of Insight in January 2020, Oncocyte has expanded its portfolio to include a novel gene expression-based test that we call DetermaIO™, developed to identify patients most likely to respond to immunotherapy drugs. Current predictive biomarkers, including PD-L1 and TMB, have shown only limited ability to accurately predict which patients who will respond to an immunotherapy. For example, according to published literature, more than half of PD-L1 positive patients do not respond to immune- checkpoint inhibitors, and 1 in 6 patients who will respond are missed (referred to as a "false negative").

Given the potential benefit of immunotherapy, yet the high cost and toxicity associated with the treatment, it is very important to accurately identify both responders and non-responders to reduce overall morbidity and mortality. DetermaIO™ was developed for that purpose. The test measures the expression levels of 27 genes and algorithmically computes an immunomodulatory-positive (IM+) or immunomodulatory-negative (IM-) score. Patients who are IM+ have been shown to be much more likely to respond to immunotherapies, while patients who are IM- have been shown to be much less likely to respond. Initial data using DetermaIO™ that was presented at the 2019 Society for Immunotherapy of Cancer (SITC) conference suggested that our test may outperform both PD-L1 and TMB in identifying responders to checkpoint inhibitors.

The ability to accurately determine response to immunotherapies has important implications for both the patients themselves and the healthcare economy as a whole. For the patients that are likely to respond to immunotherapies, these drugs can be a much more effective and less toxic treatment option than standard chemotherapy. For the patients who are unlikely to respond, opting for a different course of treatment would eliminate exposure to potentially serious side effects of immunotherapies such as auto-immune diseases, and could save payers in the healthcare industry use of extremely costly therapy regimens.

DetermaIO™ –Immunotherapy treatment selection in breast cancer care

The origin of the gene expression dataset used in DetermaIO™ was work done to better classify triple negative breast cancer (TNBC) into five subtypes all of which can be modified by the DetermaIO™ immune response classifier. These subtypes are advancing in studies elucidating their association with different targeted or cytotoxic chemotherapy treatment regimens. In addition to continuing development of DetermaIO™ for prediction of patients likely or unlikely to respond to lung cancer immunotherapies, Oncocyte is planning validation studies for DetermaIO™ as a predictor for immunotherapy response in the treatment of TNBC and may work towards clinical validation of this broader subtyping test for selection of other therapy classes in TNBC.

Significant Global Market Opportunities

The global opportunity for our tests is significant, representing an annual testing opportunity of over 2.5 million samples and close to a potential $9 billion total addressable market as follows: DetermaRx™ — more than 80,000 potential patients: DetermaDx™ — more than 1 million potential patients; DetermaIO™ — more than 1.5 million patients. Each of these tests is performed as a multi-gene expression test using standard FFPE tissue samples for DetermaRx™ and DetermaIO™, or a simple blood draw for DetermaDx™. Although these have been developed as LDTs for the U.S. market to be performed in our CLIA laboratories, one of our goals is to establish a relationship with a global instrument platform company to develop and commercialize a kitted product in foreign markets for each of our tests.

Pharma Services

Our acquisition of Insight expanded our laboratory offerings to include a CLIA-certified laboratory that has been accredited by the College of American Pathologists (CAP). The lab is ISO 9001 201 and 21 CFR Part 820 compliant which allows it to support the key delivery of services to the pharmaceutical and biotechnology industry for biomarker discovery, clinical trials, and product development. We currently provide the following services:

- Custom drug target discovery services
- Assay design, development and validation services
- Clinical trial and other testing services

Pharmaceutical companies investing millions of dollars in clinical trials may benefit from developing predictive biomarkers that can help identify the subset of patients most likely to respond to their drugs. This patient stratification approach may enhance the success rates of their clinical trials by allowing the pharmaceutical company to identify which patients to include in the trials. We believe that it is now well understood that a multi-analyte approach combining DNA, RNA, and protein expression and epigenomic markers will deliver the highest level of treatment response prediction compared to DNA based testing alone.

With the Insight acquisition, we now have a differentiated offering to biopharma that includes a full suite of diagnostically relevant offerings analyzing DNA and RNA level including real time PCR, multiplex PCR, and next generation sequencing (NGS).

The quality credentialing and the multi-analyte capabilities described above enable our laboratory to provide end-to-end services to biopharmaceutical companies from discovery of a predictive biomarker, to its validation in clinical trials, and finally to Federal Food and Drug Administration ("FDA") approval of the biomarker as a "companion diagnostic" to be utilized in conjunction with the therapy to identify patients eligible for the drug.

Commercialization of our Diagnostic Tests

Our first commercial diagnostic test is DetermaRx™. Since we acquired rights to commercialize DetermaRx™ in September 2019, we have been receiving clinical samples and reporting patient results through the Razor CLIA certified laboratory in Brisbane, California. We are receiving patient samples from, and we are providing test results to, a select group of cancer care centers.

The strategy we are pursuing to market DetermaRx™ is likely to be replicated in large measure for the market launch of our other cancer tests as we complete development and the tests become ready for commercialization. To expand our customer base for DetermaRx™, we have hired a limited sales force in focused regions of the country to identify and target hospitals and physicians that perform a high volume of surgical resections, as well as National Comprehensive Cancer Network (NCCN) cancer centers. The call points for our sales force are thoracic surgeons who perform resections of early stage lung cancer, and medical oncologists who make chemotherapy treatment decisions for patients identified high-risk by the test.

We are investing in physician education to drive demand for DetermaRx™. A central pillar of our physician education efforts is our Key Opinion Leader-led speaker program that is focused on peer-to-peer engagement. Several community and academic speakers have already been enrolled as speakers. Our marketing and physician education efforts also include participation in lung cancer focused national and regional medical meetings and symposia, and grant support of accredited continuing medical education (CME) events.

We have also initiated a patient education program in partnership with physicians. We are working with the Go2 Foundation (formerly the Addario Foundation) to drive patient awareness, and to make the test accessible and available for physicians to order at the community level throughout their Centers of Community COE network of more than 50 cancer care hospitals.

Market Access – Reimbursement

Billing, Coverage, and Reimbursement for our Diagnostic Tests

Currently DetermaRx™ is Oncocyte's only commercialized test. We expect that revenues from our clinical laboratory for this test will be derived from several different sources:

- Third-party payers that provide coverage to the patient, such as an insurance company, a managed care organization, or a governmental payer program, including Medicare;
- Physicians or other authorized parties, such as hospitals or independent laboratories, that order the test for patients or otherwise refer the testing services to us; or
- Patients, in cases where the patient has no insurance, has insurance that partially covers the testing, or owes a co-payment, co-insurance, or deductible amount.

We estimate that approximately 70% of DetermaRx™ patients will have Medicare coverage. However, in the absence of reimbursement by a health insurance plan or Medicare, patients who would be candidates for the use of our tests may decline to use our tests, and physicians may be reluctant to prescribe our tests, due to the cost of the test to the patients. Because of this patient cost factor, revenues from any new cancer test that we market may experience slow growth until the test is approved for reimbursement by larger payer plans which cover many patients.

Medicare

For lung cancer diagnostics, Medicare or CMS reimbursement approval is critical. CMS relies on a network of Medicare Administrative Contractors ("MACs") to make Local Coverage Decisions approving a test for reimbursement. The Molecular Diagnostics Services ("MolDx") Program was developed by Palmetto GBA (the previous MAC for California) to identify and establish coverage and reimbursement for molecular diagnostics tests. The program has developed guidelines for the level of evidence of efficacy required to be obtained through clinical trials. Palmetto, which contracted with CMS to administer the MolDx, issues Local Coverage Determinations that affect coverage, coding, and billing of many molecular tests and the current MAC for California, Noridian Healthcare Solutions, LLC, has adopted the coverage policies from Palmetto. MACs also serve as the primary operational contact between the Medicare Fee-For-Service program, for paying Medicare claims, and approximately 1.5 million health care providers enrolled in the program. Palmetto issued a proposed positive local coverage determination ("LCD") for the DetermaRx™ decision in August 2019. The comment period following this decision ended in November 2019. We expect to submit claims to CMS upon receiving the final local coverage decision. The pricing for the test is also anticipated to be finalized at the same time as the final LCD.

Private Third-Party Payers

In addition to seeking Medicare reimbursement approval, we will seek reimbursement approval from private payers such as health insurance companies and HMOs. Private payers generally will determine whether to approve a diagnostic test for reimbursement based on the published results of clinical validity and clinical utility studies, and may base their decision on whether to cover a test, and at what level to reimburse, on the MAC's local coverage determination. We have shown our published clinical evidence to ten payers that represent over 100 million covered lives, and we received favorable feedback from several of the payers on the clinical evidence. Obtaining private payer medical coverage generally takes twelve to twenty-four months from the time that sufficient evidence is demonstrated. In the interim we will bill commercial payers and appeal any denials using the published clinical evidence supporting the utility of the test.

Reimbursement rates paid by private third-party payers can vary based on whether the provider is considered to be an "in-network" provider, a participating provider, a covered provider, an "out-of-network" provider or a non-participating provider. Currently, we are out-of-network with all commercial payers. These definitions can vary among payers. An in-network provider usually has a contract with the payer or benefits provider. This contract governs, among other things, service-level agreements and reimbursement rates. In certain instances, an insurance company may negotiate an in-network rate for our testing. An in-network provider may have rates that are lower per test than those that are out-of-network, and that rate can vary widely. Rates vary based on the payer, the testing type and often the specifics of the patient's insurance plan. If a laboratory agrees to contract as an in-network provider, it generally expects to receive quicker payment and access to additional covered patients. However, it is likely that we will initially be considered an "out-of-network" or non-participating provider by payers who cover the vast majority of patients until we can negotiate contracts with the payers.

We cannot predict whether, or under what circumstances, payers will reimburse for patients for our tests. Full or partial denial of coverage by payers, or reimbursement at inadequate levels, would have a material adverse impact on our business and on market acceptance of our tests.

Billing and Collection

Where there is a private or governmental third-party payer coverage policy in place, we will bill the payer and the patient in accordance with the established policy. Our efforts in obtaining reimbursement based on individual claims, including pursuing appeals or reconsiderations of claims denials, could take a substantial amount of time, and bills may not be paid for many months, if at all. Furthermore, if a third-party payer denies coverage after final appeal, payment may not be received at all.

Where there is no coverage policy in place, we will pursue reimbursement on a case-by-case basis. In some cases, if not prohibited by law or regulation, we may bill physicians, hospitals and other laboratories directly for the services that they order. However, laws and regulations in certain states prohibit laboratories from billing physicians or other purchasers for testing that they order. Some states may allow laboratories to bill physicians directly but may prohibit the physician and, in some cases, other purchasers from charging more than the purchase price for the services, or may allow only for the recovery of acquisition costs, or may require disclosure of certain information on the invoice. An increase in the number of states that impose similar restrictions could adversely affect us by encouraging physicians to perform laboratory services in-house or by causing physicians to refer services to other laboratories that are not subject to the same restrictions.

Under U.S. generally accepted accounting principles, we may not be able to recognize revenues, even if we have performed and delivered the tests we discussed above, until we have contracts for reimbursement from payers and a history of experience of cash collections for the tests we perform. Until we develop that experience or have the contracts in place with payers, or both, we expect to recognize revenue on a cash basis for the tests that we perform. Accordingly, we will accrue cost of revenues and other operating expenses related to our diagnostic tests before any revenues may be recognized until we receive payment for the tests performed. If this were to occur, it may result in costs of revenues and other operating expenses to be incurred and recognized in our consolidated statements of operations without any corresponding revenues for the period reported.

Corporate Information

We were incorporated in September 2009 in the state of California. Our principal executive offices are located at 15 Cushing, Irvine, California 92618. Our telephone number is (949) 409-7600. Our website is www.Oncocyte.com. Information contained on, or that can be accessed through, our website, is not, and shall not be deemed to be, incorporated into or be considered a party of this Report.

DetermaDx™, DetermaRx™, and DetermaIO™ are trademarks of OncoCyte Corporation.

We are an "emerging growth company" as defined in the Jumpstart Our Business Startups Act of 2012. We will remain an "emerging growth company" until the earliest of (i) the last day of the fiscal year in which we have total annual gross revenues of $1.0 billion or more; (ii) the last day of our fiscal year following the fifth anniversary of the first sale of our common equity securities pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act"); (iii) the date on which we have issued more than $1.0 billion in nonconvertible debt during the previous three years; or (iv) the date on which we are deemed to be a large accelerated filer under the rules of the Securities and Exchange Commission, or the SEC. We refer to the Jumpstart Our Business Startups Act of 2012 herein as the "JOBS Act," and references herein to "emerging growth company" shall have the meaning associated with it in the JOBS Act.

As an emerging growth company, we may take advantage of specified reduced disclosure and other requirements that are otherwise applicable, in general, to public companies that are not emerging growth companies. These provisions include:

- Reduced disclosure about our executive compensation arrangements;
- No non-binding shareholder advisory votes on executive compensation or golden parachute arrangements; and
- Exemption from the auditor attestation requirement in the assessment of our internal control over financial reporting.

We may take advantage of these exemptions for up to five years or such earlier time that we are no longer an emerging growth company.

Competition

Our industry is highly competitive and characterized by rapid technological change. Key competitive factors in our industry include, among others, the ability to successfully complete clinical studies, the ability to obtain any required regulatory approval, average selling prices of competing tests, CLIA laboratory capacity and costs, intellectual property and patent rights, and sales and marketing capabilities. We are an early stage company with a limited operating history and many of our competitors have substantially more resources than we do, including financial, technical and sales resources. In addition, many of our competitors have more experience than we have in the development and commercialization of diagnostics. We are also competing with academic institutions, governmental agencies and private organizations that are conducting research in the field of diagnostics. Our competition will be determined in part by the potential indications for which our lead test candidates are developed and ultimately marketed. Additionally, the timing of market introduction of our diagnostic tests or of competitors' tests may be an important competitive factor. Accordingly, we expect that important competitive factors will include the speed with which we can complete pivotal validation and utility studies of DetermaDx™ and commercialize the test, including obtaining Medicare reimbursement approval.

For the DetermaDx™ test, Oncocyte is aware of one major direct competitor, Biodesix, Inc. ("Biodesix"), that has a commercially available blood-based lung cancer diagnostic test that competes in the nodule management market. According to publicly available information provided by Biodesix, it has two products, Nodify-XL2 to identify likely benign nodules, and the Early CDT® test to identify nodules at high risk for cancer. Because the Early CDT® test result may potentially route the patient to an invasive procedure, we believe the Early CDT® test does not offer a similar value proposition as DetermaDx™. However, the Nodify-XL2 test appears to be a direct competitor to DetermaDx™, as it claims to help identify likely benign nodules in an effort to avoid unnecessary and risky lung biopsies. In addition, another company called Veracyte, Inc., ("Veracyte") has developed Percepta®, a tissue-based product for indeterminate bronchoscopies for lung nodules. Based on our understanding and publicly available information, Percepta® is performed on tissue samples collected via an invasive surgical procedure and therefore, we believe Percepta® does not address the unmet need of avoiding unnecessary invasive and risky lung diagnostic procedures.

For the DetermaRx™ test, Oncocyte is not aware of any other diagnostic test currently on the market for the treatment stratification of patients with surgically resected Stage I and IIA NSCLC, therefore we do not believe there is a direct competitor to our DetermaRx™ test. Guidelines established by the NCCN include criteria for identifying patients at high risk of recurrence for resected Stage I and IIA NSCLC, but these criteria, to our knowledge, have not been validated to demonstrate accuracy or clinical benefit.

The DetermaIO™ test competes with multiple biomarkers already in clinical use or in development for predicting response to immunotherapy. The most commonly used clinical tests employed in the immunotherapy response market are PD-L1 expression testing and TMB. We believe, however, the current standard of care for PD-L1 testing has important limitations. According to published literature, more than half of PD-L1 positive patients do not respond to immune-checkpoint inhibitors, and 1 in 6 patients who will respond are missed (referred to as a "false negative"). Furthermore, data presented at recent oncology medical conferences suggests that TMB is not a reliable predictor of immunotherapy response. Further, data presented at SITC (discussed previously), suggested that DetermaIO™ outperformed both PD-L1 and TMB in predicting response to checkpoint inhibitors in patients with NSCLC. We are planning additional studies to confirm these results in a larger patient population for clinical use and reimbursement.

Licensed Technology from Wistar

We have entered into a License Agreement that entitles us to use certain patents, know-how and data belonging to The Wistar Institute of Anatomy and Biology ("Wistar").

Licenses Granted

Under the License Agreement, we have obtained an exclusive, sublicensable, worldwide license under certain patents ("Licensed Patents"), and under certain know-how and data ("Technical Information") belonging to Wistar, for use in the field of molecular diagnostics for lung cancer, including but not limited to confirmatory, companion and recurrence diagnostics for any type of lung cancer with detection through whole blood, fractionated blood, plasma, serum and/or other biological samples (the "Licensed Field"). We have the right to grant sublicenses of the licensed patents and Technical Information subject to certain conditions.

Royalties, License Fees and Other Payment Obligations

We have paid Wistar an initial license fee and will pay Wistar royalties on "net sales" of licensed products," as those terms are defined in the License Agreement. The royalty rates will range from 3% to 5% depending upon the amount of cumulative net sales. The amount of royalties payable to Wistar will be reduced by the amount of any royalties that we must pay to any third parties on the sale of the licensed products, but subject to a maximum reduction of 50%. Our obligation to pay royalties to Wistar will terminate on a licensed product-by-licensed product and country-by-country basis until the later of (i) the date a valid claim of a licensed patent covering the licensed product no longer exists, or (ii) the tenth (10th) anniversary of the first commercial sale of the licensed product in each country.

We have agreed to pay Wistar a minimum annual royalty each year, which in each case will be credited against total royalties due on net sales of licensed products during the year in which the minimum royalty is paid. We will also be obligated to pay Wistar an annual license maintenance fee in the mid-five figures.

We have agreed to pay Wistar a portion of any non-royalty sublicensing income that we may receive from the sub-licensee. Non-royalty sublicensing income will include any consideration received from a sub-licensee for granting the sublicense, but excluding royalties, the fair market value of any equity or debt securities sold to a sub-licensee, and any payments received from a sub-licensee for any related research we conduct for the sub-licensee.

We also have agreed to pay Wistar (a) milestone payments upon the occurrence of certain milestone events in the development and commercialization of a licensed product, and (b) all past or ongoing costs incurred or to be incurred by Wistar, including government fees and attorneys' fees, in the course of prosecuting the licensed patents.

Other Obligations

We have agreed to use commercially reasonable diligent efforts, directly or through sub-licensees, to develop and commercialize licensed products. We have agreed that we or a sub-licensee will commence commercial sale of a licensed product by a specified date. If sales of a licensed product do not commence by the specified date, we may purchase up to three one-year extensions of the deadline by paying Wistar a designated fee for the applicable extension. Oncocyte has agreed to purchase additional extensions.

We have agreed to indemnify Wistar and its trustees, managers, officers, agents, employees, faculty, affiliated investigators, personnel and staff, from and against certain claims and liabilities related to the License Agreement and the development, manufacture and sale of licensed products, excluding liabilities that result from or arise out of an indemnified party's gross negligence or willful misconduct.

Termination of the License Agreement

Wistar has the right to terminate the License Agreement, subject to certain notice and cure periods and *force majeure* delays in certain cases, if any of the following occur: (a) we fail to pay any amount payable to Wistar, subject to certain exceptions; (b) we materially breach any covenant or agreement or any continuing representation or warranty contained in the License Agreement, subject to certain exceptions; (c) we become subject to certain bankruptcy or insolvency events, (d) we dissolve or cease operations, (e) we or any of our affiliates or sub-licensees or affiliates of any our sub-licensees challenges the validity, patentability, scope, construction, enforceability, non-infringement, or Wistar's ownership of any issued patent comprising the licensed patents, or assists any third party in any such challenge; or (f) we fail to fulfill our product development and commercialization diligence obligations and related performance milestones.

We have the right to terminate the License Agreement with or without cause, upon the passage of a specified period of time after giving Wistar written notice of termination.

Wistar's Retained Rights to Certain Proposed Products

Wistar has reserved the right to (i) make, use, practice and further develop the licensed patents and Technical Information for educational, research, and other internal purposes; (ii) grant to any academic, government, research or non-profit institution or organization the right to make, use and practice the licensed patents or Technical Information for non-commercial research and educational purposes; and (iii) grant licenses under the Licensed Patents or Technical Information to any party for any field, product, service or territory other than the licensed products in the Licensed Field.

In addition, if Wistar determines to develop or has developed an actual or potential licensed product that is for an application, product, sub-field or indication in the Licensed Field, but for which Wistar reasonably believes a licensed product is not being actively developed or commercialized by us or by our affiliates or sub-licensees, Wistar may give us notice of the proposed product. If we timely inform Wistar of our election to develop the proposed product, and if we successfully negotiate a development plan and milestones for the proposed product, we will be entitled to develop the proposed product as a licensed product under the License Agreement. If we do not elect to develop the proposed product or do not reach agreement with Wistar for a development plan and milestones for the proposed product, Wistar may exclude the proposed product from our license under the License Agreement and may develop the proposed product itself or grant licenses to third parties under the licensed patents and Technical Information for the development and commercialization of the proposed product.

Razor Sublicense Agreement

We have entered into a Sublicense and Distribution Agreement ("Razor Sublicense Agreement") with Razor and its principal shareholder Encore Clinical, Inc. ("Encore") pursuant to which Razor has granted us: (i) an exclusive worldwide sublicense under certain patent rights applicable to DetermaRx™ in the field of use covered by the applicable license held by Razor for purposes of commercialization and development of DetermaRx™, and (ii) an exclusive sublicense under certain co-owned patent rights applicable to DetermaRx™ in the United States and in other countries where Razor may lawfully grant such licenses in the field of use for purposes of commercialization and development of DetermaRx™ . We have the exclusive rights to commercialize and collect revenues derived from the commercialization of DetermaRx™. The key terms of the Razor Sublicense Agreement are summarized below.

Royalty, License, and Revenue Sharing Payments

Oncocyte will make royalty payments to Encore and the other shareholders of Razor based on the net cash revenues actually collected from commercialization of DetermaRx™, less certain related costs including certain payments to third parties as royalties and revenue share payments owed by Razor to third parties with respect to revenues from the commercialization of DetermaRx™. The initial royalty rate payable to the Razor shareholders will be a low double-digit percentage and will decline as certain cumulative net revenue benchmarks are reached, with a single digit royalty rate payable to them as the benchmarks are attained. Royalties will be payable to the Razor shareholders on a quarterly basis.

Oncocyte will pay all royalties and all revenue sharing and earnout payments owed by Razor to certain third parties with respect to DetermaRx™ revenues, but those payments will be deducted from gross revenues to determine net revenues for the purpose of paying royalties to the Razor shareholders.

Termination of Sublicense Agreement

The Razor Sublicense Agreement will terminate upon the expiration or termination of Razor's license agreement with the licensor of the test technology, and may be terminated at an earlier date (i) by mutual written consent of the parties, (ii) by Oncocyte upon an uncured material breach of the representations, warranties, covenants, or agreements under the Razor Sublicense Agreement or under certain other agreements by Encore, or any such uncured material breach by Razor before the date on which we acquire all of the shares of Razor common stock held by Encore and the other Razor shareholders (the "Second Closing Date"), (iii) by Encore upon an uncured material breach of the representations, warranties, covenants, or agreements under the Razor Sublicense Agreement or under certain other agreements by Oncocyte, or (iv) by Oncocyte if there has been any event, fact, condition, change, circumstance, occurrence or effect, which, either individually or in the aggregate, adversely affects, in any material respects, DetermaRx™, it prospects or its ability to be commercialized.

Intellectual Property

Oncocyte will have the right to control any third-party infringement, invalidation of rights, or other claims with respect to DetermaRx™ to the extent permitted by the Razor's license agreement with its licensor. Prior to the Second Closing, any intellectual property rights developed by Oncocyte, Razor or Encore with respect to DetermaRx™ will be owned jointly by Oncocyte, Razor, and Encore, to the extent permitted by the license agreement between Razor and its licensor, but after the Second Closing, Razor and Encore will assign their rights to Oncocyte.

Facilities

Oncocyte leases a building located at 15 Cushing in Irvine, California that serves as Oncocyte's principal executive and administrative offices and laboratory facility. Oncocyte plans to construct a clinical diagnostic laboratory and a research laboratory in the building and to seek CLIA certification for the laboratory. Oncocyte also operates CLIA certified laboratories in Brisbane, California and Nashville, Tennessee.

Materials

There is a limited number of manufacturers of molecular diagnostic testing equipment and related chemical reagents necessary for the provision of our diagnostic tests. Additionally, the chemical reagents used with the diagnostic testing equipment we chose are available only from the equipment manufacturer. This situation poses a risk to us. After encountering inconsistent results using diagnostic testing equipment and reagents from one manufacturer, we switched to diagnostic testing equipment from a different manufacturer. If issues were to arise with the diagnostic testing equipment or reagents we are using causing us to acquire different diagnostic testing equipment again, we would need to conduct additional R&D Validation studies, Analytic Validation, and CLIA Laboratory Validation studies to determine whether our previous test results can be reproduced using the new equipment. If similar issues were to arise after commercialization of a diagnostic test, we could experience a disruption for a period of time in providing the diagnostic tests to patients and we would lose revenues and potentially market share as a result.

Patents and Trade Secrets

We rely primarily on patents and contractual obligations with employees and third parties to protect our proprietary rights. We have sought, and intend to continue to seek, appropriate patent protection for important and strategic components of our proprietary technologies by filing patent applications in the U.S. and certain foreign countries. There can be no assurance that any of our patents will guarantee protection or market exclusivity for our diagnostic tests and diagnostic test candidates. We may also use license agreements both to access technologies developed by other companies and universities and to convey certain intellectual property rights to others. Our financial success will be dependent in part on our ability to obtain commercially valuable patent claims and to protect our intellectual property rights and to operate without infringing upon the proprietary rights of others.

Our patent portfolio includes certain patent families owned by us with claims directed to compositions of matter and methods useful for detection of breast and lung cancers using specific biomarkers or a panel of specific biomarkers. Patents are pending in the United States, with projected expiration dates ranging from 2033 to 2039.

We have also obtained an exclusive license from Wistar to certain pending patent applications in the field of molecular diagnostics for lung cancer. The pending claims are directed to compositions of matter and methods useful for detection of lung cancer using specific biomarkers or a panel of specific biomarkers, with projected expiration dates ranging from 2027 to 2038. Patents covered by the exclusive license have issued in the United States, Europe, Australia, Canada and India and are pending in the United States, Australia, Brazil. Canada, China, Europe, India, Israel, Japan, Mexico, New Zealand, Russia, Saudi Arabia, Singapore, South Korea, and the United Arab Emirates. Those patents are projected to expire in 2028 - 2029.

We have also obtained certain exclusive rights to patents and patent applications co-owned by Razor and The University of California San Francisco. The claims are directed to compositions of matter and methods useful for treating and detection of lung cancer using specific biomarkers or a panel of specific biomarkers. Patents covered by the exclusive rights have issued in the United States, Australia, Europe, and Hong Kong with projected expiration dates in 2032.

We have also obtained an exclusive sublicense to certain patents and patent applications owned by The University of California San Francisco and licensed to Razor. The claims are directed to compositions of matter and methods useful for treating and detection of lung cancer using specific biomarkers or a panel of specific biomarkers. Patents covered by the exclusive rights have issued in the United States, Australia, Europe, New Zealand, Japan, China, and Hong Kong and are pending in Canada with projected expiration dates between 2024 and 2032.

Through our acquisition of Insight Genetics in January of 2020, we obtained exclusive rights to additional intellectual property, including trade secrets, registered trademarks, domain names, copyrights, issued and reissued patents and pending applications, and software material to the business of Insight Genetics was assigned to Oncocyte.

In addition to relying on patents, we will rely on trade secrets, know-how, and continuing technological advancement to maintain our competitive position. The molecular diagnostics that we are developing use gene expression classifiers or algorithms, which are mathematical models that weight the biomarkers to produce a score. We will treat the mathematical models as trade secrets. We have entered into intellectual property, invention, and non-disclosure agreements with our employees, and it is our practice to enter into confidentiality agreements with our consultants. There can be no assurance, however, that these measures will prevent the unauthorized disclosure or use of our trade secrets and know-how, or that others may not independently develop similar trade secrets and know-how or obtain access to our trade secrets, know-how, or proprietary technology.

General Risks Related to Obtaining and Enforcing Patent Protection

Our patents and patent applications are directed to compositions of matter, formulations, methods of use and/or methods of manufacturing. The patent positions of pharmaceutical and biotechnology companies, including ours, are generally uncertain and involve complex legal and factual questions. Our business could be negatively impacted by any of the following:

- The claims of any patents that are issued may not provide meaningful protection, may not provide a basis for commercially viable diagnostic tests or may not provide us with any competitive advantages;

- Our patents may be challenged by competitors or other third parties and if the third parties are successful in their challenge, they could use the patented inventions to compete with us;

- Others may have patents that relate to our technology or business that may prevent us from marketing our diagnostic test candidates unless we are able to obtain a license to those patents;

- Patent applications to which we have rights may not result in issued patents and the information disclosed in those applications could be used by our competitors; and

- We may not be successful in developing additional proprietary technologies that are patentable.

In addition, others may independently develop similar or alternative technologies, duplicate any of our technologies and, if patents are licensed or issued to us, design around the patented technologies licensed to or developed by us. Moreover, we could incur substantial costs in litigation if we have to defend ourselves in patent lawsuits brought by third parties or if we initiate such lawsuits.

The United States Supreme Court's decisions in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.* and *Association for Molecular Pathology v. Myriad Genetics* may limit our ability to obtain patent protection on diagnostic methods that merely recite a correlation between a naturally occurring event and a diagnostic outcome associated with that event. Our cancer diagnostic tests are based on the presence of certain genetic markers for a variety of cancers. In *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, the Supreme Court ruled that patent protection is not available for the use of a mathematical correlation of the presence of a well-known naturally occurring metabolite as a means of determining proper drug dosage. The claims in the contested patents that were the subject of that decision were directed to measuring the serum level of a drug metabolite and adjusting the dosing regimen of the drug based on the metabolite level. The Supreme Court said that a patent claim that merely claimed a correlation between the blood levels of a drug metabolite and the best dosage of the drug was not patentable subject matter because it did no more than recite a correlation that occurs in nature.

In *Association for Molecular Pathology v. Myriad Genetics,* the Supreme Court ruled that the discovery of the precise location and sequence of certain genes, mutations of which can dramatically increase the risk of breast and ovarian cancer, was not patentable. Knowledge of the gene location and sequences was used to determine the genes' typical nucleotide sequence, which, in turn, enabled the development of medical tests useful for detecting mutations in these genes in a particular patient to assess the patient's cancer risk. But the mere discovery of an important and useful gene did not render the genes patentable as a new composition of matter.

Also, in *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, the Federal Circuit ruled that a method for detecting a paternally inherited nucleic acid of fetal origin performed on a maternal serum or plasma sample from a pregnant female was not patent eligible subject matter under the framework set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc*. The court examined the elements of the claim to determine whether the claim contained an inventive concept sufficient to transform the claimed naturally occurring phenomenon into a patent eligible application and found that the method steps did not support patentability because they used conventional amplification and detection techniques. Although the claims can be distinguished from the claims at issue in *Mayo Collaborative Services v. Prometheus Laboratories, Inc*., the court was bound by the language of the Supreme Court decision to hold Sequenom's claims unpatentable.

While the cases discussed above are instructive, the United States Patent and Trademark Office (the "USPTO") has issued interim guidelines in light of the Supreme Court decisions indicating that process claims having a natural principle as a limiting step will be evaluated to determine if the claim includes additional steps that practically apply the natural principle such that the claim amounts to significantly more than the natural principle itself. Because the diagnostic tests that we are developing combine an innovative methodology with newly discovered compositions of matter, we are hopeful that this Supreme Court decision will not preclude the availability of patent protection for our diagnostic tests.

The USPTO has also issued multiple Subject Matter Eligibility Updates to provide further guidance in determining subject matter eligibility. The Subject Matter Eligibility Updates include new Subject Matter Eligibility Examples for the Life Sciences. These examples provide favorable exemplary subject matter eligibility analysis of hypothetical claims covering diagnostic tests and claims drawn from case law. This update from the USPTO does not change our opinion on our ability to obtain meaningful patent protection.

There is a risk that any patent applications that we file and any patents that we hold or later obtain could be challenged by third parties and declared invalid or infringing of third-party claims. A patent interference proceeding may be instituted with the USPTO when more than one person files a patent application covering the same technology, or if someone wishes to challenge the validity of an issued patent filed before March 16, 2013. At the completion of the interference proceeding, the USPTO will determine which competing applicant is entitled to the patent, or whether an issued patent is valid. Patent interference proceedings are complex, highly contested legal proceedings, and the USPTO's decision is subject to appeal. This means that if an interference proceeding arises with respect to any of our patent applications, we may experience significant expenses and delay in obtaining a patent, and if the outcome of the proceeding is unfavorable to us, the patent could be issued to a competitor rather than to us. In addition to interference proceedings, the USPTO can reexamine issued patents at the request of a third party seeking to have the patent invalidated. Currently an inter partes review proceeding will allow third parties to challenge the validity of an issued patent where there is a reasonable likelihood of invalidity. This means that patents owned or licensed by us may be subject to re-examination and may be lost if the outcome of the re-examination is unfavorable to us.

Post Grant Review under the America Invents Act makes available opposition-like proceedings in the United States. As with the USPTO interference proceedings, Post Grant Review proceedings will be very expensive to contest and can result in significant delays in obtaining patent protection or can result in a denial of a patent application. Also, a derivation proceeding may be instituted by the USPTO or an inventor alleging that a patent or application was derived from the work of another inventor.

Oppositions to the issuance of patents may be filed under European patent law and the patent laws of certain other countries. As with the USPTO interference proceedings, these foreign proceedings can be very expensive to contest and can result in significant delays in obtaining a patent or can result in a denial of a patent application.

The enforcement of patent rights often requires litigation against third party infringers, and such litigation can be costly to pursue. Even if we succeed in having new patents issued or in defending any challenge to issued patents, there is no assurance that our patents will be comprehensive enough to provide us with meaningful patent protection against our competitors.

Government Regulation

CLIA—Clinical Laboratory Improvement Amendments of 1988 and State Regulation

We expect that DetermaDx™, DetermaRx™, and DetermaIO™ will be regulated under the Clinical Laboratory Improvements Amendment ("CLIA") as laboratory diagnostic tests or "LDTs" and will not be regulated as *in vitro* diagnostic test or IVDs" that will be subject to approval by the FDA and through the European Directive on *in vitro* diagnostics in the European Union. See "Government Regulation" below. In 1988, Congress enacted CLIA, which established quality standards for all laboratories that provide testing services to ensure the accuracy, reliability and timeliness of patient test results regardless of where the test is performed.

Under CLIA, a laboratory is defined as any facility that performs laboratory testing on specimens derived from humans for the purpose of providing information for the diagnosis, prevention or treatment of disease, or the impairment of, or assessment of health of human beings. Because we meet this definition, CLIA requires that we hold a certificate applicable to the complexity of the categories of testing we perform and that we comply with certain standards. Laboratories performing high complexity testing are required to meet more stringent requirements than laboratories performing less complex tests. CLIA regulations require clinical laboratories like our laboratory to comply with various operational, personnel, facilities administration, quality, and proficiency testing requirements intended to ensure that testing services are accurate, reliable and timely. CLIA certification is a prerequisite for reimbursement eligibility for services provided to state and federal health care program beneficiaries. CLIA is user-fee funded. Therefore, all costs of administering the program must be covered by the regulated facilities, including certification and survey costs.

FDA Regulation of Diagnostic Tests

We have designed, developed, and are validating our tests as LDTs and consequently believe our tests are governed under the CLIA regulations, as administered by CMS, as well as by applicable state laws.

Historically, the FDA has exercised enforcement restraint with respect to most LDTs and has not required laboratories that offer LDTs to comply with FDA requirements for medical devices, such as registration, device listing, quality systems regulations, premarket clearance or premarket approval, and post-market controls.

In recent years, however, the FDA has stated it intends to end its policy of enforcement restraint and begin regulating certain LDTs as medical devices. In October 2014, the FDA issued two draft guidance documents, entitled "Framework for Regulatory Oversight of Laboratory Developed Tests (LDTs)" and "FDA Notification and Medical Device Reporting for Laboratory Developed Tests (LDTs)", respectively, that set forth a proposed risk-based regulatory framework that would apply varying levels of FDA oversight to LDTs.

In January 2017, the FDA issued a Discussion Paper on LDTs ("Discussion Paper"), which proposes a risk-based approach to LDT oversight focusing on new and significantly modified high and moderate risk LDTs. However, low risk LDTs, LDTs for rare diseases, traditional LDTs, LDTs intended solely for public health surveillance, certain LDTs used in CLIA certified labs, and LDTs intended solely for forensic use would not be expected to comply with premarket review, quality systems, and registration and listing requirements unless necessary to protect public health. With respect to the post-market surveillance of LDTs, the FDA's Discussion Paper recommends that laboratories initially report serious adverse events for all tests except the exempted categories of tests, which include LDTs intended for public health surveillance, some stem cell/tissue/organ transplantation LDTs, and LDTs intended solely for forensic use. The Discussion Paper notes that while the report neither represents the formal position of the FDA and nor is it a final version of the LDT guidance documents published in 2014, it is hoped that its publication will continue to advance further public disclosure. The FDA has indicated that it does not intend to modify its policy of enforcement restraint until the draft guidance documents are finalized.

Based on guidance set forth in the Discussion Paper, the proposed legislation, and the FDA's comments on such legislation, FDA premarket review of new and significantly modified LDTs could be phased-in in the near future, however, to date no firm time commitments have been set. Nonetheless, the FDA may decide to regulate certain LDTs on a case-by-case basis at any time.

FDA regulations could also require, among other things, additional clinical studies and submission of a premarket notification or filing a Premarket Approval ("PMA") application with the FDA. For example, LDTs with the same intended use as a cleared or approved companion diagnostic are defined in the FDA's draft guidance as "high-risk LDTs (Class III medical devices)" for which premarket review would be required. This may include the use of our LDTs for screening patients for cancer.

Since 2017, legislators have been working to advance a draft of the Diagnostic Accuracy and Innovation Act ("DAIA") to serve as a basis for creating new regulatory framework for LDTs. In August 2018, the FDA suggested changes to DAIA and addressed the need for a new regulatory framework that would require new tests to undergo FDA review to demonstrate they are analytically and clinically valid. The FDA's changes to the bill included proposals related to premarket approval, provisional approval, and a precertification program, and made explicit its authority to revoke approval, request raw data, and take corrective action against test developers in order to protect the public health. In December 2018 the FDA Commissioner and the Director of the Center for Devices and Radiological Health (CDRH) expressed significant concerns regarding disparities between some LDTs and in vitro diagnostics that have been reviewed and cleared or approved by the FDA.

Responding to the FDA's DAIA comments, in December 2018 legislators released a draft bill called the Verifying Accurate, Leading-edge IVCT Development ("VALID") Act, which features a precertification program. The term IVCT refers to in vitro clinical tests, a new category that was introduced in DAIA, and comprises both test kits and lab-developed tests. Following years of discussion, on March 5, 2020, identical versions of the VALID Act were introduced in both chambers of Congress. As introduced, the VALID Act includes precertification proposed by the FDA, a process through which diagnostic developers could receive premarket approval or clearance for one test representative of a group of tests using the same technology and have other elements in common. Approval of that representative test would precertify other tests in the group and allow the lab to launch them without premarket review. The VALID Act would also create a new system for labs and hospitals to use to submit their tests electronically to the FDA for approval, which is aimed at reducing the amount of time it takes for the agency to approve such tests, and establish a new program to expedite the development of diagnostic tests that can be used to address a current unmet need for patients. The introduced Valid Act also includes specific language designed to address public health emergencies, including COVID-19. The FDA estimates that between 40% and 50% of tests would qualify for precertification. If enacted, the impact of the VALID Act will be minimal for IVD manufacturers because of the alignment between the VALID Act and existing medical device statutory and regulatory requirements and the fact that such requirements have been enforced for IVD manufacturers for decades; however, it will have a significant impact on clinical laboratories as laboratories will need to comply with many new requirements, including: registration and listing with the FDA; quality requirements; investigational studies; premarket review and approval; adverse event reporting; and corrections and removals (recalls). While the VALID Act outlines a framework for these elements (among others), the law, if enacted, would direct the FDA to promulgate regulations and issue guidance documents, giving clinical laboratories and others ample opportunity to participate in shaping the new IVCT regulatory program.

On March 18, 2020, Senator Rand Paul introduced a bill, called the Verified Innovative Testing in American Laboratories ("VITAL") Act, which strikes a counterpoint to the proposed VALID Act. VITAL seeks to update existing federal lab standards under the CLIA, specifically stating that all aspects of lab-developed testing procedures would be regulated by the US Health and Human Services Secretary under the Public Health Services Act, and that no aspects of lab-developed testing procedures would be regulated under the Federal Food, Drug, and Cosmetic Act, including during a public health emergency.

While we cannot predict whether the either VALID Act or the VITAL Act as proposed, or any modified version of either act will be enacted into law, it is expected that some form of the acts will be incorporated into a broader health care legislative package widely anticipated to be enacted in 2020. Until the FDA finalizes its regulatory position regarding LDTs, or the VALID Act or other legislation is passed reforming the federal government's regulation of LDTs, it is unknown how the FDA may regulate our tests in the future and what testing and data may be required to support any required clearance or approval.

California State Laboratory Licensing

In addition to federal certification requirements of laboratories under CLIA, we are required to maintain licensure under California law for our laboratory in Brisbane, California. The California law includes standards for the day-to-day operation of a clinical reference laboratory, including the training and skills required of personnel and quality control. In addition, California laws mandate proficiency testing, which involves testing of specimens that have been specifically prepared for the laboratory. Our clinical laboratory was certified by the state of California in 2017. If we do not meet the requirements of California laws, the California Department of Health Services ("DHS") may suspend, restrict or revoke our license to operate our laboratory, assess substantial civil money penalties, or impose specific corrective action plans.

Other State Laboratory Licensing

Some states require licensure of out-of-state laboratories that accept specimens from those states. Our laboratories will need to pass various state inspections in order to get licensed to provide LDTs in each of state that requires licensure. CLIA provides that a state may adopt laboratory regulations that are more stringent than those under federal law, and two states, New York and Washington, have met that standard and therefore substitute for the federal CLIA program. In addition, some, but not all, states require a separate state license or permit, which must be obtained in addition to a CLIA certificate, and some states require a laboratory doing business in that state to be licensed even if the laboratory is located in another state.

Our laboratory is licensed by the appropriate state agencies in the states in which we do business, if such licensure is required. If a laboratory is out of compliance with state laws or regulations governing licensed laboratories, a state may impose penalties, which penalties vary from state to state but may include suspension, limitation, revocation or annulment of the license, assessment of financial penalties or fines, or imprisonment. We believe that we are in material compliance with all applicable licensing laws and regulations.

We may become aware from time to time of other states that require out-of-state laboratories to obtain licensure to accept specimens from patients within the state, and other states may impose such requirements in the future. If we identify any other state with such requirements, or if we are contacted by any other state advising us of such requirements, we intend to follow all instructions from the state regulators regarding compliance with such requirements.

In Vitro Diagnostics

In the future, we may elect to develop IVDs, which are regulated by the FDA as medical devices. Medical devices marketed in the United States are subject to the regulatory controls under CLIA, the Federal Food, Drug, and Cosmetic Act, and regulations adopted by the FDA. Some requirements, known as premarket requirements, apply to medical devices before they are marketed, and other requirements, known as post-market requirements, apply to medical devices after they are marketed.

The particular premarket requirements that must be met to market a medical device in the United States will depend on the classification of the device under FDA regulations. Medical devices are categorized into one of three classes, based on the degree of risk they present. Devices that pose the lowest risk are designated as Class I devices; devices that pose moderate risk are designated as Class II devices and are subject to general controls and special controls; and the devices that pose the highest risk are designated as Class III devices and are subject to general controls and premarket approval.

A premarket submission to the FDA will be required for some Class I devices, most Class II devices; and all Class III devices. Most Class I and some Class II devices are exempt from premarket submission requirements. Some Class I and most Class II devices may be marketed after a 510(k) premarket notification, while a more extensive PMA is required to market Class III devices.

Until regulatory requirements suggested by the FDA or required by any new legislation are phased in, our initial confirmatory diagnostics will not require FDA filing before launch. Since the tests we are developing are being developed as LDTs, the regulatory pathway that we will be following is the CLIA certification and inspection pathway.

If the new requirements are phased in or if we elect to develop IVDs, our future screenings diagnostics may require a 510(k) submission or a PMA. In a 510(k) submission, the device sponsor must demonstrate that the new device is "substantially equivalent" to a predicate device in terms of intended use, technological characteristics, and performance testing. A 510(k) requires demonstration of substantial equivalence to another device that is legally marketed in the United States. Substantial equivalence means that the new device is at least as safe and effective as the predicate. A device is substantially equivalent if, in comparison to a predicate it (a) has the same intended use as the predicate and has the same technological characteristics as the predicate; or (b) has the same intended use as the predicate, has different technological characteristics, and the information submitted to the FDA does not raise new questions of safety and effectiveness, and is demonstrated to be at least as safe and effective as the legally marketed predicate device.

A claim of substantial equivalence does not mean the new and predicate devices must be identical. Substantial equivalence is established with respect to intended use, design, energy used or delivered, materials, chemical composition, manufacturing process, performance, safety, effectiveness, labeling, biocompatibility, standards, and other characteristics. A device may not be marketed in the United States until the submitter receives a letter declaring the device substantially equivalent. If the FDA determines that a device is not substantially equivalent, the applicant may resubmit another 510(k) with new data, or request a Class I or II designation through the FDA's *de novo* process that allows a new device without a valid predicate to be classified into Class I or II if it meets certain criteria, or file a reclassification petition, or submit a PMA.

A new 510(k) submission is required for changes or modifications to an existing approved device, where the modifications could significantly affect the safety or effectiveness of the device or the device is to be marketed for a new or different indication for use.

A PMA for Class III devices is the most stringent type of premarket submission. Before the FDA approves a PMA, the sponsor must provide valid scientific evidence demonstrating reasonable assurance of safety and effectiveness for the device's intended use.

Health Insurance Portability and Accountability Act and Other Data Privacy and Security Laws

Under the Health Insurance Portability and Accountability Act ("HIPAA"), the Department of Health and Human Services ("HHS") has issued regulations to protect the privacy and security of protected health information. HIPAA also regulates standardization of data content, codes and formats used in health care transactions and standardization of identifiers for health plans and providers. Penalties for violations of HIPAA regulations include civil and criminal penalties.

CMS and the Office of Civil Rights issued a final rule in February 2014 to amend both the HIPAA and CLIA regulations. The final rule amended the HIPAA privacy rule to remove the CLIA laboratory exceptions, and as a result, HIPAA-covered laboratories are now required to provide individuals, upon request, with access to their completed test reports. Under the 2014 rule, CLIA laboratories and CLIA-exempt laboratories may provide copies of a patient's completed test reports that, using the laboratory's authentication process, can be identified as belonging to that patient. These changes to the CLIA regulations and the HIPAA Privacy Rule are intended to provide individuals with a greater ability to access their health information. CLIA laboratories must create and maintain policies, procedures, and other documentation necessary to inform patients of the right to access laboratory test reports and how to exercise that right.

In addition to the federal privacy regulations, there are a number of state laws regarding the privacy and security of health information and personal data that are applicable to clinical laboratories. The compliance requirements of these laws, including additional breach reporting requirements, and the penalties for violation vary widely and new privacy and security laws in this area are evolving. For example, California has implemented comprehensive privacy laws and regulations. The California Confidentiality of Medical Information Act imposes restrictive requirements regulating the use and disclosure of health information and other personally identifiable information. In addition to fines and penalties imposed upon violators, some of these state laws also afford private rights of action to individuals who believe their personal information has been misused. California's patient privacy laws, for example, provide for penalties of up to $250,000 and permit injured parties to sue for damages. In addition to the California Confidentiality of Medical Information Act, California also recently enacted the California Consumer Privacy Act of 2018, or CCPA, which became effective January 1, 2020. The CCPA has been characterized as the first "GDPR-like" privacy statute to be enacted in the United States because it mirrors a number of the key provisions of the E.U. General Data Protection Regulation. The CCPA establishes a new privacy framework for covered businesses in the State of California, by creating an expanded definition of personal information, establishing new data privacy rights for consumers imposing special rules on the collection of consumer data from minors, and creating a new and potentially severe statutory damages framework for violations of the CCPA and for businesses that fail to implement reasonable security procedures and practices to prevent data breaches. While data subject to HIPAA and federal regulations governing the conduct of clinical trials is exempt from CCPA, certain of our business activities may be subject to CCPA. While the CCPA statue is in effect, as of March 19, 2020, draft regulations promulgated by the California Attorney General have not yet been finalized and remain open for public comment until March 27, 2020. We cannot predict when regulations will be finalized, and what effect those regulations may have on our operations.

Physician Referral Prohibitions

Under a federal law directed at "self-referral," commonly known as the Stark Law, there are prohibitions, with certain exceptions, on Medicare and Medicaid payments for laboratory tests referred by physicians who personally, or through a family member, have a "financial relationship"—including an investment or ownership interest or a compensation arrangement—with the clinical laboratory performing the tests. Several Stark Law exceptions are relevant to arrangements involving clinical laboratories, including: (1) fair market value compensation for the provision of items or services; (2) payments by physicians to a laboratory for clinical laboratory services; (3) certain space and equipment rental arrangements that satisfy certain requirements, and (4) personal services arrangements that satisfy certain requirements. The laboratory cannot submit claims to the Medicare Part B program for services furnished in violation of the Stark Law, and Medicaid reimbursements may be at risk as well. Penalties for violating the Stark Law include the return of funds received for all prohibited referrals, fines, civil monetary penalties and possible exclusion from the federal health care programs. Many states have comparable laws that are not limited to Medicare and Medicaid referrals.

In October 2019, HHS proposed changes to the Stark Law, the Anti-Kickback Statute, and the Civil Monetary Penalty Law, which would represent some of the most significant changes to these laws in the last decade. The changes have been promulgated as part of HHS's "Regulatory Sprint to Coordinated Care," which was launched in 2018 with the goal of reducing regulatory burden and incentivizing coordinated care. As part of this initiative, CMS and the HHS Office of Inspector General (OIG) began scrutinizing a variety of long-standing regulatory requirements and prohibitions to determine whether they unnecessarily hinder the innovative arrangements that policymakers are otherwise hoping to see develop. The proposed rules reflect a coordinated effort between CMS and OIG to address various challenges to the transition to value-based care. The Stark Law Proposed Rule includes new exceptions designed to enable value-based care arrangements and proposes a long list of additional changes to the Stark Law regulations intended to address many of the most challenging aspects of Stark Law compliance. If finalized, the changes proposed in these rules could present significant opportunities for new arrangements, but may also necessitate revisions to current arrangements involving healthcare providers, others involved in the healthcare industry, and patients.

Corporate Practice of Medicine

A number of states, including California, do not allow business corporations to employ physicians to provide professional services. This prohibition against the "corporate practice of medicine" is aimed at preventing corporations such as us from exercising control over the medical judgments or decisions of physicians. The state licensure statutes and regulations and agency and court decisions that enumerate the specific corporate practice rules vary considerably from state to state and are enforced by both the courts and regulatory authorities, each with broad discretion. If regulatory authorities or other parties in any jurisdiction successfully assert that we are engaged in the unauthorized corporate practice of medicine, we could be required to restructure our contractual and other arrangements. In addition, violation of these laws may result in sanctions imposed against us and/or the professional through licensure proceedings, and we could be subject to civil and criminal penalties that could result in exclusion from state and federal health care programs.

Federal and State Fraud and Abuse Laws

A variety of federal and state laws prohibit fraud and abuse. These laws are interpreted broadly and enforced aggressively by various state and federal agencies, including CMS, the Department of Justice, the Office of Inspector General for HHS, and various state agencies. In addition, the Medicare and Medicaid programs increasingly use a variety of contractors to review claims data and to identify improper payments as well as fraud and abuse. These contractors include Recovery Audit Contractors, Medicaid Integrity Contractors and Zone Program Integrity Contractors. In addition, CMS conducts Comprehensive Error Rate Testing audits, the purpose of which is to detect improper Medicare payments. Any overpayments identified must be repaid unless a favorable decision is obtained on appeal. In some cases, these overpayments can be used as the basis for an extrapolation, by which the error rate is applied to a larger universe of claims, and which can result in even higher repayments.

The federal Anti-Kickback Statute prohibits, among other things, knowingly and willfully offering, paying, soliciting, receiving, or providing remuneration, directly or indirectly, to induce or in return for either the referral of an individual, or the furnishing, recommending, or arranging for the purchase, lease or order of any health care item or service reimbursable, in whole or in part, under a federal health care program. The definition of "remuneration" has been broadly interpreted to include anything of value, including gifts, discounts, credit arrangements, payments of cash, ownership interests and providing anything at less than its fair market value. Recognizing that the Anti- Kickback Statute is broad and may technically prohibit many innocuous or beneficial arrangements within the health care industry, the Office of Inspector General for HHS has issued a series of regulatory "safe harbors." These safe harbor regulations set forth certain requirements that, if met, will assure immunity from prosecution under the federal Anti-Kickback Statute. Although full compliance with these provisions ensures against prosecution under the federal Anti-Kickback Statute, the failure of a transaction or arrangement to fit within a specific safe harbor does not necessarily mean that the transaction or arrangement is illegal or that prosecution under the federal Anti-Kickback Statute will be pursued.

HIPAA also created new federal crimes, including health care fraud and false statements relating to health care matters. The health care fraud statute prohibits knowingly and willfully executing a scheme to defraud any health care benefit program, including private third-party payers. A violation of this statute is a felony and may result in fines, imprisonment or exclusion from federal health care programs, such as the Medicare and Medicaid programs. The false statements statute prohibits knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false, fictitious or fraudulent statement in connection with the delivery of or payment for health care benefits, items or services. A violation of this statute is a felony and may result in fines, imprisonment or exclusion from federal health care programs.

Many states have laws similar to the federal laws described above, and state laws may be broader in scope and may apply regardless of payer.

Additionally, the U.S. Foreign Corrupt Practices Act ("FCPA") prohibits U.S. corporations and their representatives from offering, promising, authorizing or making payments to any foreign government official, government staff member, political party or political candidate in an attempt to obtain or retain business abroad. The scope of the FCPA includes interactions with certain healthcare professionals in many countries. Other countries have enacted similar anti-corruption laws and/or regulations.

Other Regulatory Requirements

Our laboratory will be subject to federal, state and local regulations relating to the handling and disposal of regulated medical waste, hazardous waste and biohazardous waste, including chemical, biological agents and compounds, blood samples and other human tissue. Typically, we will use outside vendors who are contractually obligated to comply with applicable laws and regulations to dispose of such waste. These vendors will be licensed or otherwise qualified to handle and dispose of such waste.

The Occupational Safety and Health Administration has established extensive requirements relating to workplace safety for health care employers, including requirements to develop and implement programs to protect workers from exposure to blood-borne pathogens by preventing or minimizing any exposure through needle stick or similar penetrating injuries.

Employees

As of December 31, 2019, we employed 33 persons on a full-time basis. Four of our full-time employees hold Ph.D. degrees in one or more fields of science.

Item 1A. Risk Factors

Our business is subject to various risks, including those described below. You should consider the following risk factors, together with all of the other information included in this Report, which could materially adversely affect our proposed operations, our business prospects, and financial condition, and the value of an investment in our business. There may be other factors that are not mentioned here or of which we are not presently aware that could also affect our business operations and prospects.

Risks Related to Our Business Operations

We may incur significant cash payment and common stock issuance obligations under our agreements arising from our investments in Razor and Insight.

As described in Note 5 to our financial statements, we have entered into certain agreements with Razor and its shareholders, including a Purchase Agreement, Minority Holder Stock Purchase Agreements, and a Development Agreement, under which we may incur significant cash payment and common stock issuance obligations. Under the Purchase Agreement and the Minority Holder Stock Purchase Agreements we could become obligated to purchase, or we may elect to purchase, the outstanding Razor common stock from its shareholders for which we would pay those shareholders $10 million in cash and issue to them shares of Oncocyte common stock with an aggregate market value equal to $5 million at the date of issue.

Under the Development Agreement, upon completion of enrollment of the full number of patients for DetermaRx™ Clinical Trial, Oncocyte will be obligated to issue to the Razor shareholders shares of Oncocyte common stock with an aggregate market value equal to $3 million at the date of issue.

The number of shares of Oncocyte common stock issuable under the Purchase Agreement, the Minority Holder Purchase Agreements, and the Development Agreement on a combined basis is limited to 19.99% of the issued and outstanding shares of Oncocyte common stock or the outstanding voting power of Oncocyte shares as of the date of the Purchase Agreement, and if that number of shares has a value of less than $5 million on the date the Purchase Agreement and Minority Holder Purchase Agreement obligations must be met, or less than $3 million on the date the Development Agreement obligation must be met, we would need to pay an amount of cash necessary to bring the combined value of cash and shares to $5 million to satisfy the Purchase Agreement and Minority Holder Purchase Agreement obligations, or $3 million to satisfy the Development Agreement obligation. The number of shares that may become issuable to satisfy those $5 million and $3 million obligations cannot presently be determined because the number of shares will depend upon the market price of our common stock when the shares become issuable. The issuance of those shares of common stock will dilute the interests of our other common stockholders.

Under the Development Agreement we are also obligated to pay the expenses of DetermaRx™ Clinical Trial after Razor's $4 million Clinical Trial Expense Reserve has been exhausted. If within a specified time frame Encore is substantially responsible for obtaining funding to Oncocyte or Razor for the Clinical Trial from any third-party pharmaceutical company, a portion of such additional funding amount will be paid to Encore, subject to a $3 million cap on the payment to Encore if the funding is provided by a designated pharmaceutical company.

Also, under the Development Agreement we must pay Encore $4 million in cash if Razor receives a final positive coverage decision from CMS/MolDx for reimbursement of patient costs of DetermaRx™.

In addition, under the Merger Agreement pursuant to which we acquired Insight, as described in Note 11 to the financial statements included elsewhere in this Report, we have agreed to pay contingent consideration of up to $6.0 million in any combination of cash or shares of Oncocyte common stock if certain milestones related to DetermaIO™ are achieved (the "Contingent Consideration"), which consist of (i) a $1.5 million clinical trial completion and data publication milestone, (ii) $3.0 million for an affirmative final local coverage determination from CMS for a specified lung cancer test, and (iii) up to $1.5 million for achieving certain CMS reimbursement milestones.

To meet these various cash payment obligations, we may need to sell additional shares of our common stock or other securities to raise the cash needed, or we may have to divert cash on hand that we would otherwise use for other business and operational purposes which could cause us to delay or reduce activities in the development and commercialization of our cancer tests. Any shares of common stock or other securities we sell to raise cash to meet our cash payment obligations will dilute the interests of our common stockholders.

We may experience delays in conducting the additional validation studies necessary for the commercialization of DetermaDx™, or we may encounter unanticipated results or findings.

We have successfully completed our CLIA Laboratory Validation study of DetermaDx™ and have commenced Clinical Validation. Clinical Validation is the final step prior to commercial launch of an LDT, and we are anticipating completion of our Clinical Validation study for DetermaDx™ by the end of the second quarter of 2020. If the Clinical Validation study is completed successfully, we plan to commercialize DetermaDx™ promptly thereafter. However, until we perform the Clinical Validation study, we will not know whether we can successfully complete the development of DetermaDx™. We may not be able to successfully complete this testing for DetermaDx™ or any other test we may develop. While we plan to make DetermaDx™ commercially available in the second half of 2020, there can be no assurance that there will be no delays in the successful completion of the Clinical Validation study and commercialization of DetermaDx™, due to any number factors some of which may not be within our control. Any delays in the successful completion of the Clinical Validation study for DetermaDx™ could cause us to incur significant additional costs and delay the completion of development and commercial launch of DetermaDx™. We may encounter unanticipated results or finding in the Clinical Validation study showing that our earlier study results may not be predictive of future test results with DetermaDx™. We have performed only limited research and development work for other diagnostic tests, and we have conducted no research and development work outside of cancer. Our Immune System Interrogation approach, which analyzes the immune system's response to a specific disease, and our technology may not ultimately have application in any other population, and we may be unable to identify any future candidates and tests for any other cancer or any other disease population.

We recently launched our first diagnostic test on the market and have not yet generated any revenues from operations.

We are in the early stages process of the commercial launch of DetermaRx™, and we are working to complete development of DetermaDx™ and anticipate making it commercially available in the second half 2020. However, we may be unable to complete development of DetermaDx™ in that timeframe or at all. We also need to perform additional development work on DetermaIO™ before it can be made available for commercial use clinically. Even if we complete development of DetermaDx™ and DetermaIO™, our commercialization arrangements for those tests and DetermaRx™ may not generate revenues in sufficient amounts to meet our operating expenses. Without sufficient diagnostic test sales or licensing fee revenues, we will not be able to operate at a profit, and we will not be able to cover our operating expenses without raising additional capital.

We have limited capital, marketing, and sales resources for the commercialization of our diagnostic tests.

We are building our own marketing and sales capability for our diagnostic tests, and are devoting significant financial and management resources to recruiting, training, and managing our sales force and building a health care regulatory compliance program. However, due to our limited capital resources, we may need to enter into marketing arrangements with other diagnostic companies for one or more of our tests in domestic or foreign markets. Under such marketing arrangements we may license marketing rights to one or more of our diagnostic tests to other diagnostic companies or to one or more joint venture companies that may be formed to market our tests, and we might receive only a royalty on sales or an equity interest in a joint venture company. As a result, our revenues from the sale of our tests through such arrangements may be substantially less than the amount of revenues and gross profits that we might receive if we were to market our tests ourselves.

Sales of our diagnostic tests could be adversely impacted by the reluctance of physicians to adopt the use of our tests and by the availability of competing diagnostic tests.

Physicians and hospitals may be reluctant to try a new diagnostic test due to the high degree of risk associated with the application of new technologies and diagnostic test in the field of human medicine, especially if the new test differs from the current standard of care for detecting cancer in patients. Competing tests for the initial diagnosis, reoccurrence diagnosis and optimal treatment of cancer are being manufactured and marketed by established companies and by other smaller biotechnology companies. In order to compete with other diagnostic tests, particularly any that sell at lower prices, our tests will have to provide medically significant advantages or be more cost effective. Even if we are able to overcome physician reluctance and compete with products that are currently on the market, our competitors may succeed in developing new safer, more accurate or more cost-effective diagnostic tests that could render our diagnostic tests and technologies obsolete or noncompetitive.

If our laboratory facilities become damaged or inoperable, or we are required to vacate any facility, our ability to provide services and pursue our research and development and commercialization efforts may be jeopardized.

We do not have any clinical laboratory facilities outside of our facilities in Brisbane, California, and Nashville, Tennessee. Our facilities and equipment could be harmed or rendered inoperable by natural or man-made disasters, including fire, flooding and power outages, which may render it difficult or impossible for us to perform our tests or provide laboratory services for some period of time. The inability to perform our tests or the backlog of tests that could develop if any of our facilities is inoperable for even a short period of time may result in the loss of customers or harm to our reputation or relationships with key researchers, collaborators, and customers, and we may be unable to regain those customers or repair our reputation in the future. Furthermore, our facilities and the equipment we use to perform our research and development work could be costly and time-consuming to repair or replace.

Additionally, a key component of our research and development process involves using biological samples and the resulting data sets and medical histories, as the basis for our diagnostic test development. In some cases, these samples are difficult to obtain. If the parts of our laboratory facilities where we store these biological samples are damaged or compromised, our ability to pursue our research and development projects, commercialization of our diagnostic tests, as well as our reputation, could be jeopardized. We carry insurance for damage to our property and the disruption of our business, but this insurance may not be sufficient to cover all of our potential losses and may not continue to be available to us on acceptable terms, if at all.

Further, if our laboratories become inoperable, we may not be able to license or transfer our proprietary technology to a third-party, with established state licensure and CLIA certification under the scope of which our diagnostic tests could be performed following validation and other required procedures, to perform the tests. Even if we find a third-party with such qualifications to perform our tests, such party may not be willing to perform the tests for us on commercially reasonable terms. Moreover, we believe our tests are currently subject to enforcement discretion by the FDA because we believe the tests currently qualify as LDTs. If, however, we are required to find a third-party laboratory to conduct our testing services, we believe this would change our status and the FDA would consider such tests offered through a third-party to then be a medical device subject to active FDA regulation and enforcement under its *in vitro* diagnostic authorities. In that case, we may be required to obtain premarket clearance or approval prior to offering our tests, which would be time-consuming and costly and could result in interruptions and delays in our ability to sell or offer our tests.

We may not be able to produce additional cancer diagnostic tests that offer high enough sensitivity to offset the availability of minimally invasive biopsies for some types of cancer, which could impede our development and commercialization of an array of diagnostic tests.

We believe that a significant benefit of DetermaDx™ will be the reduction of unnecessary surgical biopsies to diagnose lung cancer. While lung cancer biopsies involve an invasive surgical procedure, biopsies of some other types of cancer, including breast cancer, often can be performed using less invasive procedures that result in significantly less risk, discomfort, and cost to the patient while providing a diagnostic result that would be as accurate or more accurate than any diagnostic tests we may develop. As a result, physicians and patients may prefer to rely on a non-invasive or minimally invasive biopsy to test for certain cancers rather than use a blood test.

We have incurred operating losses since inception, and we do not know if we will attain profitability.

Since our inception in September 2009, we have incurred operating losses and negative cash flows and we expect to continue to incur losses and negative cash flows in the future. Our net losses for the years ended December 31, 2019 and 2018 were $22.4 million and $15.8 million, respectively, and we had an accumulated deficit of $93.7 million as of December 31, 2019. Since inception, we have financed our operations through sales of our common stock and warrants, loans from Lineage and Lineage affiliates, warrant exercises, a bank loan and sale of Lineage common shares that we hold as marketable equity securities. We do not expect Lineage to provide future financing. There is no assurance that we will be able to obtain any additional financing that we may need, or that any such financing that may become available will be on terms that are favorable to us and our shareholders. Ultimately, our ability to generate sufficient operating revenue to earn a profit depends upon our success in developing and marketing or licensing our diagnostic tests and technology.

The research and development work we are doing is costly, time consuming, and uncertain as to its results.

We incurred research and development expenses amounting to approximately $6.8 million and $6.5 million during years ended December 31, 2019 and 2018, respectively. During the past few years we have devoted substantially all of our research and development efforts to the development of DetermaDx™, but we have recently expanded the focus of our research and development to include DetermaIO™ acquired through our merger with Insight and a clinical trial of DetermaRx™. We also plan to conduct research and development of additional or improved versions of our diagnostic tests. If we are successful in developing a new technology or diagnostic test for additional types of cancer, refinement of the new technology or diagnostic test and definition of the practical applications and limitations of the technology or diagnostic test may take years and require the expenditure of large sums of money. There is no assurance that we will be successful in completing the development of our current diagnostic tests or in developing additional diagnostic tests regardless of the amount of our expenditures.

It is likely that we will need to issue additional equity or debt securities in order to raise additional capital needed to pay our operating expenses until such time as our revenues are sufficient to finance our operating expenses.

- We plan to continue to incur substantial research and development expenses and we anticipate that we will be incurring significant sales and marketing costs as we develop and commercialize our diagnostic tests. Our research and development expenses may also increase if we work to develop liquid biopsy or other tests for additional types of cancer or for other cancer related diagnostic purposes. The period of time for which our current cash and marketable securities will be sufficient to finance our operations will depend on the extent to which we expend funds on commercializing our tests and conducting new research and development programs. We will need to raise additional capital to pay operating expenses unless we are able to generate sufficient revenues from diagnostic test sales, royalties, and license fees to meet our operating expenses.

- Our ability to raise additional equity or debt capital will depend not only on the successful completion of development of our diagnostic tests and receiving reimbursement approval from Medicare and other third-party payers for those tests, but also will depend on access to capital and conditions in the capital markets. Although we expect to receive a Medicare reimbursement determination for DetermaRx™ this year, obtaining Medicare reimbursement approval for our other diagnostic tests could take two to three years, and investors may be reluctant to provide us with additional capital until we obtain Medicare reimbursement approval for those tests. There is no assurance that we will be able to raise capital at times and in amounts needed to finance the development and commercialization of our diagnostic tests and general operations. Even if capital is available, it may not be available on terms that we or our shareholders would consider favorable.

- Sales or other issuances of additional equity securities by us could result in the dilution of the interests of our shareholders.

If we fail to meet our obligations under license agreements, we may lose our rights to key technologies on which our business depends.

We use certain biomarkers that have been licensed from Wistar for DetermaDx™ and we have rights to commercialize DetermaRx™ under a sublicense from Razor. These agreements impose obligations on us, including payment obligations and obligations to pursue development and commercialization of diagnostic tests under the licensed patents and technology. If the licensor believes that we have failed to meet our contractual obligations it could seek to limit or terminate our license rights, which could lead to costly and time-consuming litigation and, potentially, a loss of the licensed rights. During the period of any such litigation our ability to carry out the development and commercialization of DetermaDx™ or DetermaRx™ and any other potential diagnostic tests that utilize licensed markers or other technology, and our ability to raise any capital that we might then need, could be significantly and negatively affected. If our license rights were restricted or ultimately lost, we would not be able to continue to use the licensed biomarkers or technology in our business.

There is a limited number of manufacturers of molecular diagnostic testing equipment and related chemical reagents necessary for the provision of our diagnostic tests.

After encountering inconsistent results using diagnostic testing equipment and reagents from one manufacturer, we switched to diagnostic testing equipment from a different manufacturer. The chemical reagents used with the diagnostic testing equipment are available only from the equipment manufacturer. If issues were to arise with the new equipment or reagents we are using causing us to acquire different diagnostic testing equipment again, we would need to conduct validation and analytic studies to determine whether our previous test results can be reproduced using the new equipment. As a result, we could experience delays again in developing our diagnostic tests. If similar issues were to arise after commercialization of a diagnostic test, we could experience a disruption for a period of time in providing the diagnostic tests to patients and we would lose revenues and potentially market share as a result.

If we fail to enter into and maintain successful strategic alliances for diagnostic tests that we elect to co-develop, co-market, or out-license, we may have to reduce or delay our diagnostic test development or increase our expenditures.

In order to facilitate the development, manufacture and commercialization of our diagnostic tests we may enter into strategic alliances with diagnostic, pharmaceutical, or medical device companies to advance our programs and enable us to maintain our financial and operational capacity. We will face significant competition in seeking appropriate alliances. We may not be able to negotiate alliances on acceptable terms, if at all. If we fail to create and maintain suitable alliances, we may have to limit the size or scope of, or delay, one or more of our product development or research programs, or we will have to increase our expenditures and will need to obtain additional funding, which may be unavailable or available only on unfavorable terms.

If we are able to enter into development and marketing arrangements with diagnostic, pharmaceutical or medical device companies for our diagnostic tests, we may license product development, manufacturing, and marketing rights to the pharmaceutical or medical device company or to a joint venture company formed with the pharmaceutical or medical device company. Under such arrangements we might receive only a royalty on sales of the diagnostic tests developed or an equity interest in a joint venture company that develops the diagnostic test. As a result, our revenues from the sale of those diagnostic tests may be substantially less than the amount of revenues and gross profits that we might receive if we were to develop, manufacture, and market the diagnostic tests ourselves.

We may become dependent on possible future collaborations to develop and commercialize many of our diagnostic test candidates and to provide the manufacturing, regulatory compliance, sales, marketing and distribution capabilities required for the success of our business.

We may enter into various kinds of collaborative research and development, manufacturing, and diagnostic test marketing agreements to develop and commercialize our diagnostic tests. Any future milestone payments and cost reimbursements from collaboration agreements could provide an important source of financing for our research and development programs, thereby facilitating the application of our technology to the development and commercialization of our diagnostic tests, but there are risks associated with entering into collaboration arrangements.

There is a risk that we could become dependent upon one or more collaborative arrangements for diagnostic test development or manufacturing or as a source of revenues from the sale of any diagnostic tests that may be developed by us alone or through one of the collaborative arrangements. A collaborative arrangement upon which we might depend might be terminated by our collaboration partner or they might determine not to actively pursue the development or commercialization of our diagnostic tests. A collaboration partner also may not be precluded from independently pursuing competing diagnostic tests or technologies.

There is a risk that a collaboration partner might fail to perform its obligations under the collaborative arrangements or may be slow in performing its obligations. In addition, a collaboration partner may experience financial difficulties at any time that could prevent it from having available funds to contribute to the collaboration. If a collaboration partner fails to conduct its diagnostic test development, manufacturing, commercialization, regulatory compliance, sales and marketing or distribution activities successfully and in a timely manner, or if it terminates or materially modifies its agreements with us, the development and commercialization of one or more diagnostic test candidates could be delayed, curtailed or terminated because we may not have sufficient financial resources or capabilities to continue diagnostic test development, manufacturing, and commercialization on our own.

Failure to adequately protect, or disputes relating to, trademarks, could harm our business.

We cannot be certain that the legal steps we are taking are sufficient to protect our trademark rights or that, notwithstanding legal protection, others will not infringe or misappropriate our intellectual property rights. In addition, we could come into conflict with third parties over trademark rights, which could result in disruptive and expensive litigation. Challenges to our trademarks could result in significant costs related to the prosecution or defense of the registrations of our trademarks or rebranding if we need to abandon or modify a trademark.

Our business could be adversely affected if we lose the services of the key personnel upon whom we depend.

We presently rely on a small senior management team to direct our diagnostics program and our initial commercial activities. Accordingly, the loss of the services of one or more of the members of that management team could have a material adverse effect on our business.

We have granted a security interest in substantially all of our assets to secure our obligations under a bank loan agreement.

We have entered into a Loan and Security Agreement with Silicon Valley Bank for a loan that is secured by substantially all of our assets, other than our patents and trade secrets, as collateral for the loan. If a default were to arise under the Loan and Security Agreement, the bank could foreclose on its security interest and we could lose our collateral, which could force us to discontinue our operations.

Our business and operations could suffer in the event of system failures.

Despite the implementation of security measures, our internal computer systems and those of our contractors and consultants are vulnerable to damage from computer viruses, unauthorized access, natural disasters, terrorism, war and telecommunication and electrical failures. Such events could cause interruption of our operations. For example, the loss of data for our diagnostic test candidates could result in delays in our regulatory filings and development efforts and significantly increase our costs. To the extent that any disruption or security breach was to result in a loss of or damage to our data, or inappropriate disclosure of confidential or proprietary information, we could incur liability and the development of our diagnostic test candidates could be delayed.

Security breaches and other disruptions could compromise our information and expose us to liability, and could cause our business and reputation to suffer.

In the ordinary course of business, we collect and store sensitive data, including intellectual property, our proprietary business information and that of our business partners, and personally identifiable information of patients and employees. The secure processing, maintenance, and transmission of this information is critical to our operations and business strategy. Despite our security measures, our information technology and infrastructure may be vulnerable to attacks by hackers or breached due to employee error, malfeasance, or other disruptions. Any such breach could compromise our networks and the information stored there could be accessed, publicly disclosed, lost, or stolen. Any such access, disclosure, theft, or other loss of information could result in legal claims or proceedings or liability under laws that protect the privacy of personal information, and could disrupt our operations and damage our reputation. Even if we do not incur an interruption of or our operations, fines, penalties, or financial liability to third parties from a security breach, we could suffer a loss of confidence in our services, which could adversely affect our business and competitive position.

Failure of our internal control over financial reporting could harm our business and financial results.

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting for external purposes in accordance with accounting principles generally accepted in the U.S. Internal control over financial reporting includes maintaining records that in reasonable detail accurately and fairly reflect our transactions; providing reasonable assurance that transactions are recorded as necessary for preparation of our financial statements; providing reasonable assurance that receipts and expenditures of our assets are made in accordance with management authorization; and providing reasonable assurance that unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements would be prevented or detected on a timely basis. Because of its inherent limitations, internal control over financial reporting is not intended to provide absolute assurance that a misstatement of our financial statements would be prevented or detected. Our growth and entry into new diagnostic tests, technologies and markets will place significant additional pressure on our system of internal control over financial reporting. Any failure to maintain an effective system of internal control over financial reporting could limit our ability to report our financial results accurately and timely or to detect and prevent fraud. Because we are an emerging growth company and a smaller reporting issuer, we are exempt from the requirement of having our internal controls over financial reporting audited by our independent registered public accountants, which means that material weaknesses or significant deficiencies in our internal controls that might be detected by an audit may not be detected and remedied.

We may from time to time be involved in or subject to legal proceedings, and unfavorable outcomes of such legal proceedings may adversely affect our business and financial condition.

We may from time to time be involved in, subject to, or threatened with legal proceedings related to, or incidental to the conduct of, our business. Such legal proceedings can be complex, costly, and disruptive to business operations by diverting the attention and energies of management and other key personnel. In addition, defense and settlement costs for any legal proceeding can be substantial, even with respect to claims that have no merit.

Our business may be materially adversely affected by the recent coronavirus (COVID-19) outbreak.

The outbreak of the coronavirus (COVID-19) could disrupt our operations due to absenteeism by infected or ill members of management or other employees, or absenteeism by members of management and other employees who elect not to come to work due to the illness affecting others in our office or laboratory facilities, or due to quarantines. COVID-19 illness could also impact members of our Board of Directors resulting in absenteeism from meetings of the directors or committees of directors, and making it more difficult to convene the quorums of the full Board of Directors or its committees needed to conduct meetings for the management of our affairs.

Supplies of chemical reagents used in our diagnostic and research laboratories could be disrupted if the manufacturers or suppliers of the reagents or chemicals used in the reagents experience absenteeism due to illness of their employees or due to local quarantines. Absenteeism due to coronavirus illness could also impact companies that the reagent manufacturers use to ship reagents to us. We cannot presently predict the extent to which the virus may impact our operations.

We are expecting a final local coverage decision from CMS/MolDx for reimbursement of patient costs of DetermaRx™ but it is possible that the timing of that decision could be delayed due to absenteeism by CMS employees or by the diversion of their efforts and attention to reimbursement approval of new diagnostic tests or other activities related to COVID-19. Further, the regulatory framework governing private laboratories and molecular diagnostic companies may be affected as governmental authorities respond to the COVID-19 outbreak, which may have unanticipated and unforeseen impact on our operations.

The broad range of local, state and national responses to COVID-19 has required us to adjust our marketing and selling activities to reflect the current environment. We have adjusted our meetings with the oncology community to rely on non-personal contacts, which might be less effective than in person meetings to promote the use of our tests. Also, the concern over available hospital, staffing, equipment, and other resources, and the risk of exposure to the virus, may lead to early stage lung cancer surgeries being delayed in the current period of uncertainty, which could result in delayed or reduced use of DetermaRx™ in the near term.

The anticipated economic consequences of the COVID-19 pandemic have adversely impacted financial markets, resulting in high share price volatility, reduced market liquidity, and substantial declines in the market prices of the shares of most publicly traded companies, including Oncocyte. Volatile or declining markets for equities could adversely affect our ability to raise capital when needed through the sale of shares of common stock or other equity securities. While these market conditions persist when we need to raise capital, and if we are able to sell shares of our common stock under then prevailing market conditions, we might have to accept lower prices for our shares and issue a larger number of shares than might have been the case under better market conditions, resulting in significant dilution of the interests of our shareholders.

If we are deemed to be an investment company, we may have to institute burdensome compliance requirements and our activities may be restricted.

An entity that, among other things, is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, owning, trading, or holding certain types of securities would be deemed an investment company under the Investment Company Act of 1940 (the "1940 Act"). Based on the securities we hold, including our equity ownership in a privately held company, we may not meet requirements for an exemption promulgated under the 1940 Act. If we are deemed to be an investment company under the 1940 Act, we would be subject to additional limitations on operating our business including limitations on the issuance of securities, which may make it difficult for us to raise capital.

Risks Related to Our Industry

Our operations as a clinical laboratory are subject to oversight by CMS under CLIA, as well as certain state agencies, and any failure to maintain our CLIA or applicable state permits and licenses may affect our ability to commercialize our diagnostic tests.

We are subject to CLIA, a federal law regulating clinical laboratories that perform testing on specimens derived from humans for the purpose of providing information for the diagnosis, prevention or treatment of disease. Our clinical laboratories must be certified under CLIA in order for us to perform testing on human specimens. CLIA is intended to ensure the quality and reliability of clinical laboratories in the United States by mandating specific standards in the areas of personnel qualifications, administration, and participation in proficiency testing, patient test management, quality control, quality assurance and inspections. We have a current certificate under CLIA to perform routine chemistry. To renew these certificates, our diagnostic laboratories are subject to survey and inspection every two years. Moreover, CLIA inspectors may make periodic inspections of our clinical laboratories outside of the renewal process.

The law also requires us to maintain a state laboratory license to conduct testing in the states in which are laboratories are located. State laws establish standards for day-to-day operation of a clinical laboratory, including the training and skills required of personnel and quality control. In addition, several states require that we hold licenses to test specimens from patients in those states. We do not have immediate plans to market our tests for commercial use in the European Union and as a result, at this time we do not believe we are subject to EU or EU member state post-market regulations related to our tests.

If we were to lose our CLIA certification or a required state license for a laboratory, whether as a result of a revocation, suspension or limitation, we would no longer be able to offer our tests from the affected laboratory, which would limit our revenue and harm our business. If we were to lose our license in other states where we are required to hold licenses, we would not be able to test specimens from those states. If we perform testing on samples originating in a state where we require a license, but do not currently have one, we could be subject to fines, sanctions, and may be denied permits or licenses in the future.

If the FDA takes the position that any of our tests are not within the scope of its policy on enforcement discretion for laboratory-developed tests, or otherwise determines that it will seek to actively regulate one or more of our diagnostic tests, responding to such a regulatory position could lead to delays in commercialization, or (if encountered after commercialization) requirements to halt the commercial provision of our tests until FDA marketing authorization is obtained.

Although we believe we are within the scope of the FDA's policy on enforcement discretion for laboratory-developed tests, the initial commercialization and continued commercial availability of an LDT is subject to uncertainty given the FDA's latitude in interpreting and applying its laws and policies. For example, although the FDA has historically exercised enforcement discretion over most LDTs, it does not consider tests to be subject to this enforcement discretion if they were or are designed or manufactured completely, or partly, outside of the laboratory that offers and uses them, or if they are offered "over-the-counter" (as opposed to being available to patients only when prescribed by a health care provider). Even for tests that appear to fall within FDA's previously stated policy on enforcement discretion, the FDA may decide to regulate certain LDTs on a case-by-case basis at any time.

In December 2018, the FDA Commissioner and the Director of the Center for Devices and Radiological Health (CDRH) expressed significant concerns regarding disparities between some LDTs and in vitro diagnostics that have been reviewed and cleared or approved by FDA. If the FDA were to determine that our tests are not within the policy for LDTs for any reason, including new rules, policies, or guidance, or due to new legislation such as the proposed VALID Act, our tests may become subject to FDA requirements, including pre-market review. If required, the regulatory marketing authorization process may involve, among other things, successfully completing additional clinical trials and submitting a pre-market clearance (510(k)) submission or filing a *de novo* or pre-market approval application with the FDA. If pre-market review and approval is required by the FDA, we may need to incur additional expenses or require additional time to seek it, or we may be unable to satisfy FDA standards, and our tests may not be cleared or approved on a timely basis, if at all, and the labeling claims permitted by the FDA may not be consistent with our currently planned claims or adequate to support adoption of and reimbursement for our tests. Ongoing compliance with FDA regulations would increase the cost of conducting our business, and subject us to inspection by and the regulatory requirements of the FDA, for example registration and listing, adherence to good manufacturing practices under the Quality System Regulation, and medical device reporting, and enforcement action in the event we fail to comply with these requirements. Our laboratory is operating under CLIA and is not currently operating as a device manufacturing facility following FDA's Quality System Regulation. Because these standards differ, we may face challenges establishing FDA-compliant quality systems or be unable to do so. If after commercialization under the LDT framework our tests are allowed to remain on the market but there is uncertainty about the regulatory status of our tests, including questions that may be raised if competitors object to our regulatory positioning as an LDT, we may encounter ongoing regulatory and legal challenges and related costs. Such challenges or related developments (for example if the labeling claims the FDA allows us to make are more limited than the claims we currently plan to make) may impact our commercialization efforts as orders or reimbursement may be less than anticipated. Any of these regulatory developments may cause our business to suffer.

We will also need to obtain FDA and other regulatory approvals for any IVDs that we may develop, in order to market those IVD tests.

If we decide to develop IVDs, we will need to obtain regulatory clearance or approval to market each new IVD test. This means that:

- The IVDs that we may develop cannot be sold until the CMS or the FDA, and corresponding foreign regulatory authorities approve or authorize the laboratory tests or the IVDs for medical use.

- We will have to conduct expensive and time-consuming clinical trials of new diagnostic tests. The full cost of conducting and completing clinical trials necessary to obtain FDA clearance or approval of IVD tests or for gaining reimbursement from health insurance companies, health maintenance organizations, Medicare, and other third-party payers cannot be presently determined but could exceed our financial resources.

- Data obtained from preclinical and clinical studies is susceptible to varying interpretations that could delay, limit or prevent regulatory agency clearances or approvals. Delays or denials of the regulatory clearances or approvals may be encountered as a result of changes in regulatory agency policy, regulations, or laws.

- A diagnostic test that is cleared or approved for marketing may be subject to restrictions on use.

- The FDA can withdraw approval of an FDA regulated product if problems arise.

Clinical trial failures can occur at any stage of the testing and we may experience numerous unforeseen events during, or as a result of, the clinical trial process that could delay or prevent commercialization of our current or future diagnostic tests.

Clinical trial failures or delays can occur at any stage of the trials, and may be directly or indirectly caused by a variety of factors, including but not limited to:

- Delays in securing clinical investigators or trial sites for our clinical trials;
- Delays in obtaining Institutional Review Board and other regulatory approvals to commence a clinical trial;
- Slower than anticipated rates of patient recruitment and enrollment, or failing to reach the targeted number of patients due to competition for patients from other trials;
- Limited or no availability of coverage, reimbursement and adequate payment from health maintenance organizations and other third-party payers for the use of our diagnostic test candidates in our clinical trials;
- Negative or inconclusive results from clinical trials;
- Approval and introduction of new diagnostic or changes in standards of practice or regulatory guidance that render our clinical trial endpoints or the targeting of our proposed indications obsolete;
- Inability to monitor patients adequately during or after treatment or problems with investigator or patient compliance with the trial protocols;
- Inability to replicate in large controlled studies safety and efficacy data obtained from a limited number of patients in uncontrolled trials; and
- Inability or unwillingness of medical investigators to follow our clinical protocols.

In 2019, when certain provisions of the Medicare Access and CHIP Reauthorization Act of 2015 ("MACRA") are scheduled to take effect, the demand and payment for our services may be impacted.

The Medicare Access and CHIP Reauthorization Act of 2015 ("MACRA"), which was signed into law on April 16, 2015, makes substantial changes to the payment structure for physicians. This legislation, beginning in 2019, encourages physicians to enroll in alternative payment methods which incentivize physicians differently than how they are currently. We do not currently know how or if this will impact the future demand or payments for our services.

The commercial success of our diagnostic tests depends on the availability and sufficiency of third-party payer coverage and reimbursement, which may be limited or unavailable.

Our ability to successfully commercialize our diagnostic tests will depend, in significant part, on the extent to which appropriate reimbursement levels can be obtained for patients. Physicians will be hesitant to order a diagnostic test for a patient when they may be left with a large out-of-pocket fee through co-payments or co-insurance or unreimbursed balances. Third-party payers, including Medicare, Medicaid and private insurers, are increasingly challenging the prices charged for healthcare products and services. In addition, legislative proposals to reform health care or reduce government insurance programs may result in lower prices or the actual inability of prospective customers to purchase our tests. Furthermore, even if reimbursement is available, it may not be available at price levels sufficient for us to realize a positive return on our investment. We have never successfully obtained reimbursement for any test and may never be able to obtain reimbursement from any third-party payer; without such coverage and reimbursement, we may not achieve market acceptance of our test and may never be profitable.

The United States government and state legislatures have shown significant interest in implementing cost containment programs to limit the growth of government-paid healthcare costs, including price controls, restrictions on reimbursement and coverage. Adoption of government controls and measures, and tightening of restrictive policies in jurisdictions with existing controls and measures, could exclude or limit one or more of our diagnostic tests from coverage. Even if a diagnostic test receives coverage and reimbursement from third-party payers, such coverage policies and reimbursement rates may change at any time, might not be adequate, or less favorable coverage policies and reimbursement rates may be implemented in the future. If we are unable to obtain and maintain sufficient third-party coverage and adequate reimbursement for a diagnostic test, its commercial success may be greatly hindered, and our financial condition and results of operations may be materially and adversely affected.

We may need to conduct additional studies in order to demonstrate the cost-effectiveness of our diagnostic tests to the satisfaction of our target customers and their third-party payers. Such studies might require us to commit a significant amount of management time and financial and other resources

Changes in healthcare laws and policies may have a material adverse effect on our financial condition, results of operations and cash flows.

The ACA substantially changed the way health care is financed by both governmental and private insurers, and Congressional leaders and the President have voiced their intent to amend the ACA or to repeal and replace it with new legislation, the provisions of which are not yet known, and legal challenges to the validity of the ACA are currently being considered by Federal courts and may be decided by the United States Supreme Court in 2020. Among the ACA's key changes, the ACA reduced payment rates under the Medicare Clinical Laboratory Fee Schedule and established an Independent Payment Advisory Board to reduce the per capita rate of growth in Medicare spending if spending exceeds a target growth rate. If retained, such provisions may negatively impact payment rates for our diagnostic tests. Furthermore, effective January 1, 2013, the ACA included a 2.3% excise tax on the sale of certain medical devices sold outside of the retail setting. Although a moratorium has been imposed on this excise tax for 2016 through 2019, the excise tax is scheduled to be restored in 2020.

PAMA significantly altered the payment methodology under the Clinical Laboratory Fee Schedule that determines Medicare coverage for laboratory tests. Under PAMA, clinical laboratories are required to report test payment data for each Medicare-covered clinical diagnostic laboratory test and beginning in 2017, the Medicare payment rate for each clinical diagnostic laboratory test will be equal to the weighted median amount for the test from the most recent data collection period.

Congress has proposed on several occasions to impose a 20% coinsurance payment requirement on patients for clinical laboratory tests reimbursed under the Medicare Clinical Laboratory Fee Schedule, which would require us to bill patients for these amounts. In the event that Congress were to ever enact such legislation, the cost of billing and collecting for our tests could often exceed the amount actually received from the patient.

Medicare payments for new ADLTs are now based on the list price or charge. After the test is commercially available for three quarters, the laboratory will be required to report payment and volume information and that data will be used to set payment for the test for the following year.

- If data shows that the list price was greater than 130% of the payment using established methodology (a weighted median), CMS will recoup the difference from the laboratory through a payment claw back.

- Payment will be updated annually based on the weighted median of commercial payer reimbursement.

On January 1, 2018, the new PAMA-based Medicare Clinical Laboratory Fee Schedule went into effect for the first time. PAMA-based prices did not impact all lab tests equally. Some tests had price reductions while others saw price increases.

We cannot predict whether future health care initiatives will be implemented at the federal or state level, or how any future legislation or regulation may affect us. The expansion of government's role in the U.S. health care industry as a result of the ACA or the repeal or amendment of the ACA, and changes to the reimbursement amounts paid by Medicare and other payers for diagnostic tests may have a materially adverse effect on our business, financial condition, results of operations and cash flows.

Because of certain Medicare billing policies, we may not receive complete reimbursement for tests provided to Medicare patients.

Medicare has coverage policies that can be national or regional in scope. Coverage means that the test or assay is approved as a benefit for Medicare beneficiaries. If there is no coverage, neither the supplier nor any other party, such as a diagnostic laboratory, may receive reimbursement from Medicare for the service. Regional policies are directed by Medicare's regional MACs. Reimbursement for our diagnostic testing may be negatively impacted by California MAC policies.

Long payment cycles of Medicare, Medicaid and other third-party payers, or other payment delays, could hurt our cash flows and increase our need for working capital.

Medicare and Medicaid have complex billing and documentation requirements that we will have to satisfy in order to receive payment. Failure to comply with these requirements and other laws applicable to billing may result in, among other things, non-payment, refunds, exclusion from government healthcare programs, and civil or criminal liabilities, any of which may have a material adverse effect on our revenues and earnings. Similarly, the failure of private health insurers or other private third-party payers to properly process our payment claims in a timely manner could delay our receipt of payment for our diagnostic tests and services, which may have a material adverse effect on our cash flows.

Private health insurance company policies may deny coverage or limit the amount they will reimburse us for the performance of our diagnostic tests.

Patients who are not covered by Medicare will generally rely on health insurance provided by private health insurance companies. If we are considered a "non-contracted provider" by a third-party payer, that payer may not reimburse patients for diagnostic tests performed by us, or doctors within the payer's network of covered physicians may not use our services to perform diagnostic tests for their patients. As a result, we may need to enter into contracts with health insurance companies or other private payers to provide diagnostic tests to their insured patients at specified rates of reimbursement which may be lower than the rates we might otherwise collect.

We will be required to comply with federal and state laws governing the privacy of health information, and any failure to comply with these laws could result in material criminal and civil penalties.

HIPAA sets forth security regulations that establish administrative, physical and technical standards for maintaining the confidentiality, integrity and availability of Protected Health Information in electronic form. We also may be required to comply with state laws that are more stringent than HIPAA or that provide individuals with greater rights with respect to the privacy or security of, and access to, their health care records. The Health Information Technology for Economic and Clinical Health Act ("HITECH") established certain health information security breach notification obligations that require covered entities to notify each individual whose "protected health information" is breached.

We may incur significant compliance costs related to HIPAA and HITECH privacy regulations and varying state privacy regulations and varying state privacy and security laws. Given the complexity of HIPAA and HITECH and their overlap with state privacy and security laws, and the fact that these laws are rapidly evolving and are subject to changing and potentially conflicting interpretation, our ability to comply with the HIPAA, HITECH and state privacy requirements is uncertain and the costs of compliance are significant. The costs of complying with any changes to the HIPAA, HITECH and state privacy restrictions may have a negative impact on our operations. Noncompliance could subject us to criminal penalties, civil sanctions and significant monetary penalties as well as reputational damage.

If we are successful in commercializing our diagnostic tests, we will be obligated to comply with numerous additional federal and state statutes and regulations pertaining to our business and be subject to government oversight and scrutiny for our compliance with such laws. Laboratory and health care regulatory compliance efforts are expensive and time-consuming, and failure to maintain compliance with applicable laws could result in enforcement action which could be detrimental to our business.

If we are successful in commercializing any of our diagnostic tests, and particularly if payment becomes available from government or commercial payers for a test, we will be subject to extensive and frequently changing federal and state laws governing various aspects of our business. We will be subject to ongoing compliance with laws addressing our laboratory licensure and certification at the federal and state level; advertising and promotion (including laws enforced by the Federal Trade Commission); and laws intended to prevent fraud, waste, and abuse in healthcare programs (including among others the Anti-Kickback Statute, False Claims Act, the Eliminating Kickbacks in Recovery Act (EKRA), the Stark Law, and applicable state law equivalents).

These laws and regulations are complex and are subject to interpretation by the courts and by government agencies. If one or more such agencies alleges that we may be in violation of any of these requirements, regardless of the outcome, it could damage our reputation and adversely affect important business relationships with third parties. Any action brought against us for violation of these or other laws or regulations, even if we successfully defend against it, could cause us to incur significant legal expenses and divert our management's attention from the operation of our business. If our operations are found to be in violation of any of these laws and regulations, we may be subject to any applicable penalty associated with the violation, including civil and criminal penalties, damages and fines, and in some circumstances we could be required to refund payments received by us from payers, or even be excluded from participation in healthcare programs. Any of the foregoing consequences could seriously harm our business and our financial results.

We plan to adopt policies and procedures designed to comply with applicable laws and regulations. Developing a compliance infrastructure is costly and time-consuming, and even a well-designed and implemented compliance program cannot necessarily prevent all violations of relevant laws. We may be subject to enforcement action based on the actions or omissions of employees or contractors, including our anticipated sales force.

Risks Related to Intellectual Property

We rely on patents and trade secrets, and our financial success will depend, in part, on our ability to obtain commercially valuable patent claims, protect our intellectual property rights and operate without infringing upon the proprietary rights of others.

We rely primarily on patents and contractual obligations with employees and third parties to protect our proprietary rights. We have sought, and intend to continue to seek, appropriate patent protection for important and strategic components of our proprietary technologies by filing patent applications in the United States and certain foreign countries. We may also use license agreements both to access technologies developed by other companies and universities and to convey certain intellectual property rights to others. Our financial success will depend, in part, on our ability to obtain commercially valuable patent claims, protect our intellectual property rights and operate without infringing upon the proprietary rights of others.

With regard to DetermaDx™, we exclusively license from Wistar two patent families with claims directed to compositions of matter and methods useful for detection of lung cancer using specific biomarkers or a panel of specific biomarkers. The first patent family has patent applications pending in the United States and certain foreign jurisdictions, including Australia, Canada, China, India, and Japan, where, if issued, such patents would expire in 2036. The second patent family has patent applications pending in the United States and certain foreign jurisdictions, including Australia, Canada, China, India, and Japan, where, if issued, such patents would expire in 2037. There is no assurance that patents pending will issue.

We may not be able to obtain patent protection for our diagnostic test if our pending U.S. patent applications are found to be directed to unpatentable subject matter.

The U.S. Supreme Court has ruled on several patent cases in recent years, either narrowing the scope of patent protection available in certain circumstances or weakening the rights of patent owners in certain situations. For example, recent cases have held that diagnostic methods merely reciting a correlation between a naturally occurring event and a diagnostic outcome associated with that event is not patentable subject matter. If our pending U.S. patent applications are found to be directed to unpatentable subject matter by the USPTO, or any patents issuing from our pending patent applications are invalidated based on these decisions, we may be unable to prevent competitors from using the biomarkers or other subject matter disclosed in the patent applications to develop similar diagnostic tests that would compete with our tests. Additionally, there have been recent proposals for additional changes to the patent laws of the United States and other countries that, if adopted, could impact our ability to enforce our proprietary technology. Depending on future actions by the U.S. Congress, U.S. courts, the USPTO and the relevant law-making bodies in other countries, the laws and regulations governing patents could change in unpredictable ways that would weaken our ability to obtain new patents or to enforce our existing patents and patents that we might obtain in the future.

Changes to the patent laws in the United States and other jurisdictions could diminish the value of patents in general, thereby impairing our ability to protect our diagnostic test.

Our success is heavily dependent on intellectual property, particularly patents. Obtaining and enforcing patents in the biopharmaceutical industry involves both technological and legal complexity and is costly, time-consuming and inherently uncertain. Patent reform legislation in the United States and other countries, including the Leahy-Smith America Invents Act, or the Leahy-Smith Act, signed into law in September 2011, could increase those uncertainties and costs. The Leahy-Smith Act includes a number of significant changes to U.S. patent law. These include provisions that affect the way patent applications are prosecuted, redefine prior art and provide more efficient and cost-effective avenues for competitors to challenge the validity of patents. In addition, the Leahy-Smith Act has transformed the U.S. patent system into a "first to file" system. The first-to-file provisions, however, only became effective in March 2013. Accordingly, it is not yet clear what, if any, impact the Leahy-Smith Act will have on the operation of our business. However, the Leahy-Smith Act and its implementation could make it more difficult to obtain patent protection for our inventions and increase the uncertainties and costs surrounding the prosecution of our or our collaboration partners' patent applications and the enforcement or defense of our or our collaboration partners' issued patents, all of which could harm our business, results of operations and financial condition.

Other companies or organizations may challenge our patent rights or may assert patent rights that prevent us from developing and commercializing our diagnostic test.

Any patent applications that we file and any patents that we hold or later obtain could be challenged by third parties and declared invalid or infringing of third-party claims. A patent interference proceeding may be instituted with the USPTO when more than one person files a patent application covering the same technology, or if someone wishes to challenge the validity of an issued patent filed before March 16, 2013. At the completion of the interference proceeding, the USPTO will determine which competing applicant is entitled to the patent, or whether an issued patent is valid. Patent interference proceedings are complex, highly contested legal proceedings, and the USPTO's decision is subject to appeal. This means that if an interference proceeding arises with respect to any of our patent applications, we may experience significant expenses and delay in obtaining a patent, and if the outcome of the proceeding is unfavorable to us, the patent could be issued to a competitor rather than to us. In addition to interference proceedings, the USPTO can reexamine issued patents at the request of a third party seeking to have the patent invalidated. An *inter partes* review proceeding allows third parties to challenge the validity of an issued patent where there is a reasonable likelihood of invalidity. This means that patents owned or licensed by us may be subject to re-examination and may be lost if the outcome of the re-examination is unfavorable to us.

Post Grant Review under the Leahy-Smith Act makes available opposition-like proceedings in the United States. As with the USPTO interference proceedings, Post Grant Review proceedings will be very expensive to contest and can result in significant delays in obtaining patent protection or can result in a denial of a patent application. Further, a derivation proceeding may be instituted by the USPTO or an inventor alleging that a patent or application was derived from the work of another inventor.

Oppositions to the issuance of patents may be filed under European patent law and the patent laws of certain other countries. As with the USPTO interference proceedings, these foreign proceedings can be very expensive to contest and can result in significant delays in obtaining a patent or can result in a denial of a patent application.

The enforcement of patent rights often requires litigation against third party infringers, and such litigation can be costly to pursue. Even if we succeed in having new patents issued or in defending any challenge to issued patents, our patents may not be comprehensive enough to provide us with meaningful patent protection against our competitors.

If we are unable to protect the confidentiality of our trade secrets, the value of our technology could be materially adversely affected, and our business would be harmed.

In addition to patents, we rely on trade secrets, know-how, and continuing technological advancement to maintain our competitive position. The molecular diagnostics that we are developing use gene expression classifiers or algorithms, which are mathematical models that weight the biomarkers to produce a score. We will treat the mathematical models as trade secrets. We have entered into intellectual property, invention, and non-disclosure agreements with our employees, and it is our practice to enter into confidentiality agreements with our consultants. These measures, however, may not prevent the unauthorized disclosure or use of our trade secrets and know-how, or that others may not independently develop similar trade secrets and know-how or obtain access to our trade secrets, know-how, or proprietary technology.

We may become involved in lawsuits to protect or enforce our patents or other intellectual property, which could be expensive, time-consuming and unsuccessful.

Competitors may infringe our patents, trademarks, copyrights or other intellectual property. To counter infringement or unauthorized use, we may be required to file infringement claims, which can be expensive and time-consuming and divert the time and attention of our management and scientific personnel. Any claims we assert against perceived infringers could provoke these parties to assert counterclaims against us alleging that we infringe their patents, in addition to counterclaims asserting that our patents are invalid or unenforceable, or both. In any patent infringement proceeding, a court may decide that a patent of ours is invalid or unenforceable, in whole or in part, and that we do not have the right to stop the other party from using the invention at issue. Even if the validity of such patents is upheld, the court may construe the patent's claims narrowly or decide that we do not have the right to stop the other party from using the invention at issue on the grounds that our patent claims do not cover the invention. An adverse outcome in a litigation or proceeding involving our patents could limit our ability to assert our patents against those parties or other competitors, and may curtail or preclude our ability to exclude third parties from making and selling similar or competitive products. Any of these occurrences could adversely affect our competitive business position, business prospects and financial condition. Similarly, if we assert trademark infringement claims, a court may determine that the marks we have asserted are invalid or unenforceable, or that the party against whom we have asserted trademark infringement has superior rights to the marks in question, in which case, we could ultimately be forced to cease use of such trademarks.

Even if we establish infringement, the court may decide not to grant an injunction against further infringing activity and instead award only monetary damages, which may or may not be an adequate remedy. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, some of our confidential information could be compromised by disclosure during litigation. There could also be public announcements of the results of hearings, motions or other interim proceedings or developments. If securities analysts or investors perceive these results to be negative, it could have a material adverse effect on the price of shares of our common stock. Moreover, we may not have sufficient financial or other resources to file and pursue such infringement claims, which typically last for years before they are concluded. Even if we ultimately prevail in such claims, the monetary cost of such litigation and the diversion of the attention of our management and scientific personnel could outweigh any benefit we receive as a result of the proceedings.

We may not be able to enforce our intellectual property rights throughout the world.

Filing, prosecuting and defending patents, if issued, on our diagnostic test candidate in all countries throughout the world would be prohibitively expensive. The requirements for patentability may differ in certain countries, particularly in developing countries. Competitors may use our technologies in jurisdictions where we have not obtained patent protection to develop their own products and, further, may export otherwise infringing products to territories where we may obtain patent protection, but where patent enforcement is not as strong as that in the United States. These products may compete with our diagnostic test in jurisdictions where we do not have any issued or licensed patents or where any future patent claims or other intellectual property rights may not be effective or sufficient to prevent them from competing with us.

Moreover, our ability to protect and enforce our intellectual property rights may be adversely affected by unforeseen changes in foreign intellectual property laws. Additionally, laws of some countries outside of the United States and Europe do not afford intellectual property protection to the same extent as the laws of the United States and Europe. Many companies have encountered significant problems in protecting and defending intellectual property rights in certain foreign jurisdictions. The legal systems of some countries, including India, China and certain developing countries, do not favor the enforcement of patents and other intellectual property rights. This could make it difficult for us to stop the infringement of our patents or the misappropriation of our other intellectual property rights. For example, many foreign countries have compulsory licensing laws under which a patent owner must grant licenses to third parties. Consequently, we may not be able to prevent third parties from practicing our inventions in certain countries outside the United States and Europe. Competitors may use our technologies in jurisdictions where we have not obtained patent protection to develop their own products and, further, may export otherwise infringing products to territories where we have patent protection, if our ability to enforce our patents to stop infringing activities is inadequate. These products may compete with our diagnostic test, and our patents, if issued, or other intellectual property rights may not be effective or sufficient to prevent them from competing.

Proceedings to enforce our patent rights in foreign jurisdictions, whether or not successful, could result in substantial costs and divert our efforts and resources from other aspects of our business. Furthermore, while we intend to protect our intellectual property rights in major markets for our diagnostic test, we cannot ensure that we will be able to initiate or maintain similar efforts in all jurisdictions in which we may wish to market our diagnostic test. Accordingly, our efforts to protect our intellectual property rights in such countries may be inadequate.

If we are sued for infringing intellectual property rights of third parties, such litigation could be costly and time consuming and could prevent or delay us from developing or commercializing our diagnostic test.

There is a substantial amount of intellectual property litigation in the biotechnology and pharmaceutical industries, and we may become party to, or threatened with, litigation or other adversarial proceedings regarding intellectual property rights with respect to our current or future diagnostic test, including interference proceedings before the USPTO, misappropriation claims, or other allegations. The outcome of intellectual property litigation is subject to uncertainties that cannot be adequately quantified in advance. For example, the biotechnology and pharmaceutical industries have produced a significant number of patents, and it may not always be clear to industry participants, including us, which patents cover various types of products or methods of use. The coverage of patents is subject to interpretation by the courts, and the interpretation is not always uniform. If we were sued for patent infringement, we would need to demonstrate that our diagnostic test or methods either do not infringe the patent claims of the relevant patent or that the patent claims are invalid or unenforceable, and we may not be able to do this. Proving invalidity is difficult. For example, in the United States, proving invalidity requires a showing of clear and convincing evidence to overcome the presumption of validity enjoyed by issued patents.

In addition, several of our employees have executed proprietary rights, non-disclosure and non-competition agreements, or similar agreements with their previous employers, who may allege these employees have used or disclosed intellectual property, including trade secrets or other proprietary information. Even if we are successful in these proceedings, we may incur substantial costs, and the time and attention of our management and scientific personnel could be diverted in pursuing these proceedings, which could significantly harm our business and operating results. We may also not have sufficient resources to bring these actions to a successful conclusion.

If we are found to infringe a third party's intellectual property rights, we may have to pay monetary damages, lose valuable intellectual property rights or personnel, or be forced to cease developing, manufacturing or commercializing the infringing diagnostic test. Alternatively, we may be required to obtain a license from such third party in order to use the infringing technology and continue developing, manufacturing or marketing the infringing diagnostic test. However, we may not be able to obtain any required license on commercially reasonable terms or at all. Even if we were able to obtain a license, it could be non-exclusive, thereby giving our competitors access to the same technologies licensed to us. In addition, we could be found liable for monetary damages, including treble damages and attorneys' fees if we are found to have willfully infringed a patent. A finding of infringement could prevent us from commercializing our diagnostic test or force us to cease some of our business operations, which could materially harm our business. Claims that we have misappropriated the confidential information or trade secrets of third parties could have a similar negative impact on our business.

Patent terms may be inadequate to protect our competitive position on our diagnostic test for an adequate amount of time.

Given the amount of time required for the development, testing and regulatory review of new diagnostic tests, patents protecting such candidates might expire before or shortly after such candidates are commercialized. We expect to seek extensions of patent terms in the United States and, if available, in other countries where we are prosecuting patents. In the United States, the Drug Price Competition and Patent Term Restoration Act of 1984 permits a patent term extension of up to five years beyond the normal expiration of the patent, which is limited to the approved indication or any additional indications approved during the period of extension. However, the applicable authorities, including the FDA and the USPTO in the United States, and any equivalent regulatory authorities in other countries, may not agree with our assessment of whether such extensions are available, and may refuse to grant extensions to our patents, or may grant more limited extensions than we request. If this occurs, our competitors may be able to take advantage of our investment in development and clinical trials by referencing our clinical and preclinical data and launch their product earlier than might otherwise be the case.

Risks Related to Our Common Stock

Ownership of our common stock will entail certain risks associated with the limited history of the trading of our common stock, volatility of prices for our shares, and the fact that we do not pay dividends.

The price of our stock may rise and fall rapidly.

The market price of our common stock, like that of the shares of many biotechnology companies, may be highly volatile. The price of our common stock may rise or fall rapidly as a result of a number of factors, including:

- Sales or potential sales of substantial amounts of our common stock;
- Results of or delays in preclinical testing or clinical trials of our diagnostic test candidates;
- Announcements about us or about our competitors, including clinical trial results, regulatory approvals, new diagnostic test introductions and commercial results;
- The cost of our development programs;
- The success of competitive diagnostic tests or technologies;
- Litigation and other developments relating to our issued patents or patent applications or other proprietary rights or those of our competitors;
- Conditions in the diagnostic, pharmaceutical or biotechnology industries;
- Actual or anticipated changes in estimates as to financial results, development timelines or recommendations by securities analysts;
- Variations in our financial results or those of companies that are perceived to be similar to us, including the failure of our earnings to meet analysts' expectations;
- General economic, industry and market conditions; and
- Changes in payer coverage and or reimbursement.

Many of these factors are beyond our control. The stock markets in general, and the market for pharmaceutical and biotechnological companies in particular, have been experiencing extreme price and volume fluctuations which have affected the market price of the equity securities without regard to the operating performance of the issuing companies. Broad market fluctuations, as well as industry factors and general economic and political conditions, may adversely affect the market price of our common stock.

The implementation of a new FASB accounting standard could increase the risk that our future financial statements could be qualified by going concern uncertainty.

In August 2014, the FASB issued ASU No. 2014-15, "Presentation of Financial Statements-Going Concern (Subtopic 205-40): Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern." ASU No. 2014-15 defines management's responsibility to assess an entity's ability to continue as a going concern, and to provide related footnote disclosures. ASU No. 2014-15 is effective for us for the year ended December 31, 2016, and all annual and interim periods thereafter. In connection with preparing financial statements for each annual and interim reporting period, ASU No. 2014-15 requires that an entity's management evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the entity's ability to continue as a going concern within one year after the date that the financial statements are issued (or within one year after the date that the financial statements are available to be issued when applicable). As a result of the implementation of ASU No. 2014-15, we will be required to have more cash, cash equivalents, and liquid investments on hand on the date we issue or file our financial statements than had been the case during prior years in order to avoid going a concern qualification in our auditor's report and in the footnotes to our financial statements. If our financial statements were to become subject to a going concern qualification or uncertainty or if we are unable to alleviate substantial doubt as part of our going concern assessment, or both, the market price of our common stock could decline.

Because we do not pay dividends, our stock may not be a suitable investment for anyone who needs to earn dividend income.

We do not pay cash dividends on our common stock. For the foreseeable future we anticipate that any earnings generated in our business will be used to finance the growth of our business and will not be paid out as dividends to our shareholders. Under a Loan and Security Agreement with Silicon Valley Bank, we have agreed not to pay dividends or to make any distributions or to redeem or repurchase any capital stock without Silicon Valley Bank's prior written consent while the Loan and Security Agreement remains in effect. This means that our stock may not be a suitable investment for anyone who needs to earn income from their investments.

Securities analysts may not initiate coverage or continue to cover our common stock, and this may have a negative impact on the market price of our shares.

The market for our common stock will depend, in part, on the research and reports that securities analysts publish about our business and our common stock. We do not have any control over these analysts. Certain securities analysts cover our shares and they could issue reports or recommendations that are unfavorable to the price of our shares, and they could downgrade a previously favorable report or recommendation, and in either case our share price could decline as a result of the report. If one or more of these analysts ceases to cover our shares or fails to publish regular reports on our business, we could lose visibility in the financial markets, which could cause our share price or trading volume to decline.

You may experience dilution of your ownership interests if we issue additional shares of common stock or preferred stock.

In the future, we may issue our authorized but previously unissued equity securities, resulting in the dilution of the ownership interests of our present shareholders. We are currently authorized to issue an aggregate of 90,000,000 shares of capital stock consisting of 85,000,000 shares of common stock and 5,000,000 "blank check" shares of preferred stock. At December 31, 2019, there were 57,031,654 shares of common stock outstanding, 3,383,913 shares of common stock reserved for exercise of warrants and 7,363,778 shares of common stock reserved for issuance upon the exercise of options under our employee stock option plans. No shares of preferred stock are presently outstanding.

We may issue additional common stock or other securities that are convertible into or exercisable for common stock in order to raise additional capital, or in connection with hiring or retaining employees, directors, or consultants, or in connection with future acquisitions of licenses to technology or diagnostic tests in connection with future business acquisitions, or for other business purposes. The future issuance of any such additional common stock or other securities may create downward pressure on the trading price of our common stock.

We may also issue preferred stock having rights, preferences, and privileges senior to the rights of our common stock with respect to dividends, rights to share in distributions of our assets if we liquidate our company, or voting rights. Any preferred stock may also be convertible into common stock on terms that would be dilutive to holders of common stock.

Lineage may sell its Oncocyte shares to raise capital to finance its operations.

Based on its most recent report of beneficial ownership on Schedule 13D, Lineage holds 6,041,154 shares of Oncocyte common stock. Lineage has been periodically selling shares of Oncocyte common stock from its holdings and has announced its intention to continue to sell Oncocyte shares. The sale of such shares could have a depressing effect on the market value of Oncocyte common stock and the prices at which we can sell our own shares of common stock to raise capital to support our operations.

We are an "emerging growth company," and may elect to comply with reduced public company reporting requirements applicable to emerging growth companies, which could make our common stock less attractive to investors.

We are an "emerging growth company," as defined in the JOBS Act, and we may to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies" including reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and shareholder approval of any golden parachute payments not previously approved. We cannot predict if investors will find our common stock less attractive because we may rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile. We may take advantage of these reporting exemptions until we are no longer an "emerging growth company." We will remain an "emerging growth company" until the earliest of (i) the last day of the fiscal year in which we have total annual gross revenues of $1.0 billion or more; (ii) the fifth anniversary of the completion of the first sale of our common equity securities pursuant to an effective registration statement under the Securities Act; (iii) the date on which we have issued more than $1.0 billion in nonconvertible debt during the previous three years; or (iv) the date on which we are deemed to be a large accelerated filer under the rules of the SEC.

Item 1B. Unresolved Staff Comments

None

Item 2. Properties

Our principal executive and administrative offices are located in an office and laboratory facility of leased space in Irvine, California. The Irvine lease expires in September 2027.

We also operate CLIA-certified laboratories in Brisbane, California and Nashville, Tennessee. Our subleased Brisbane CLIA laboratory space sublease will expire on March 31, 2023, and the lease of the Nashville, Tennessee CLIA laboratory space will expire in April 2024.

Item 3. Legal Proceedings

From time to time, we may be involved in routine litigation incidental to the conduct of our business. We are not presently involved in any material litigation or proceedings.

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 traded on the NYSE American under the symbol "OCX". As of March 4, 2020, there were 62,471,122 shares of our common stock outstanding.

Holders

As of March 5, 2020, we had approximately 254 holders of record of our common stock. This number does not include shareholders whose shares of Oncocyte common stock are held in "street name" in accounts with securities broker-dealers or other financial institutions or fiduciaries.

Securities Authorized for Issuance under Equity Compensation Plans

The following table shows certain information concerning the options outstanding and available for issuance under all of our compensation plans and agreements as of December 31, 2019 (in thousands, except weighted average exercise price):

Plan Category	Number of Shares to be Issued upon Exercise of Outstanding Options, Warrants and Rights [1]	Weighted Average Exercise Price of the Outstanding Options, Warrants and Rights [1]	Number of Shares Remaining Available for Future Issuance under Equity Compensation Plans [2]
Oncocyte Stock Option Plans Approved by Shareholders	7,364	$ 2.91	6,742

(1) Includes both our 2010 Employee Stock Option Plan and our 2018 Equity Incentive Plan.
(2) All shares remaining available for future issuance are under our 2018 Equity Incentive Plan.

Additional information concerning our 2010 Employee Stock Option Plan and our 2018 Equity Incentive Plan and stock options may be found in Note 8 to the Financial Statements.

Recent Sales of Unregistered Securities

None.

Item 6. Selected Financial Data

We are a smaller reporting company as defined by Rule 12b-2 of the Securities Exchange Act of 1934, as amended, or the Exchange Act. Accordingly, we are not required to provide the information required by this item in this Report.

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

The following Management's Discussion and Analysis of Financial Condition and Results of Operations is intended to provide information necessary to understand our audited financial statements for the years ended December 31, 2019 and 2018, and highlight certain other information which, in the opinion of management, will enhance a reader's understanding of our financial condition, changes in financial condition and results of operations. These historical financial statements may not be indicative of our future performance. This Management's Discussion and Analysis of Financial Condition and Results of Operations contains a number of forward-looking statements, all of which are based on our current expectations and could be affected by the uncertainties and risks described throughout this filing, particularly in "Risk Factors."

Emerging Growth Company Status

The Jumpstart our Business Startups Act of 2012 ("JOBS Act") permits an "emerging growth company" such as Oncocyte to take advantage of an extended transition period to comply with new or revised accounting standards applicable to public companies. However, we elected to comply with newly adopted or revised accounting standards when they become applicable to public companies because our financial statements were consolidated with those of Lineage, which is not an emerging growth company under the JOBS Act and is therefore not permitted to delay the adoption of new or revised accounting standards that become applicable to public companies. This election under the JOBS Act to not delay the adoption of new or revised accounting standards is irrevocable.

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

We were incorporated in September 2009 in the state of California. We are currently devoting substantially all of our efforts to developing and planning the commercialization of DetermaDx™, DetermaRx™ and DetermaIO™. The inherent uncertainties of developing and commercializing new diagnostic tests for medical use make it impossible to predict the amount of time and expense that will be required to complete the development and commercialization of those tests. There is no assurance that we will be successful in developing new technology or diagnostic tests, or that any technology or diagnostic tests that we may develop will be proven safe and effective in diagnosis of cancer in humans, or will be successfully commercialized.

We believe we have sufficient cash, cash equivalents, marketable equity securities, and access to additional capital through an agreement with an investment banking firm to offer and sell up to $25 million of our common stock from time to time in at-the-market transactions, to carry out our current operations through at least twelve months from the issuance date of our financial statements included elsewhere in this Report. We expect that our operating expenses will continue to increase if we successfully complete the development of DetermaDx™ and DetermaIO™, conduct clinical trials of those tests and DetermaRx™, and commercialize those tests and DetermaRx™. We have hired a sales and marketing team, we are expanding the capacity of our CLIA laboratories to perform a larger volume of cancer diagnostic tests, and we are preparing the commercial launch of DetermaRx™. We are continuing to seek other opportunities to acquire ownership of or marketing rights to additional diagnostic cancer tests. Because of the expected time frame to apply for and receive Medicare reimbursement approval for our diagnostic tests, our pre-Medicare approval revenues from commercialization of our diagnostic tests and revenues from services we perform for pharmaceutical companies are not expected to cover our operating expenses. We will need to obtain additional financing for our operations until such time as we generate sufficient revenues from the commercialization of our diagnostic tests to cover our operating expenses. Our determination as to when we will seek new financing and the amount of financing that we will need will be based on our evaluation of the progress we make in our research and development programs, any changes to or the expansion of the scope and focus of our research, progress and results of commercializing our diagnostic tests after completion of development, progress in receiving Medicare reimbursement approval, and our projection of future costs. See "Liquidity and Capital Resources" for a discussion of our available capital resources, our need for future financing, and possible sources of capital.

Critical Accounting Policies

The preparation of financial statements in conformity with accounting principles generally accepted in the United States ("GAAP"), requires management to make estimates and assumptions that affect the reported amounts in our financial statements and related notes. Our significant accounting policies are described in Note 2 to our financial statements included elsewhere in this Report. We have identified below our critical accounting policies and estimates that we believe require the greatest amount of judgment. On an ongoing basis, we evaluate estimates which are subject to significant judgment, including those related to the going concern assessments of our financial statements, allocation of direct and indirect expenses, useful lives associated with long-lived intangible assets, machinery and equipment, loss contingencies, valuation allowances related to deferred income taxes, and assumptions used to value stock-based awards, debt or other equity instruments. Actual results could differ materially from those estimates. On an ongoing basis, we evaluate our estimates compared to historical experience and trends, which form the basis for making judgments about the carrying value of assets and liabilities. To the extent that there are material differences between our estimates and our actual results, our future financial statement presentation, financial condition, results of operations and cash flows will be affected.

We believe the assumptions and estimates associated with the following have the greatest potential impact on our financial statements.

Going concern assessment

With the implementation of FASB's standard on going concern, ASU No. 2014-15, we assess going concern uncertainty in our financial statements to determine if we have sufficient cash and cash equivalents on hand and working capital, including available loans or lines of credit, if any, to operate for a period of at least one year from the date our financial statements are issued, which is referred to as the "look-forward period" as defined by ASU No. 2014-15. As part of this assessment, based on conditions that are known and reasonably knowable to us, we consider various scenarios, forecasts, projections, and estimates, and we make certain key assumptions, including the timing and nature of projected cash expenditures or programs, and our ability to delay or curtail those expenditures or programs, if necessary, among other factors. Based on this assessment, as necessary or applicable, we make certain assumptions around implementing curtailments or delays in the nature and timing of programs and expenditures to the extent we deem probable those implementations can be achieved and we have the proper authority to execute them within the look-forward period in accordance with ASU No. 2014-15.

Accounting for warrants

We determine the accounting classification of warrants we issue, as either liability or equity classified, by first assessing whether the warrants meet liability classification in accordance with ASC 480-10, *Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity*, then in accordance with ASC 815-40, *Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock*. Under ASC 480, warrants are considered liability classified if the warrants are mandatorily redeemable, obligate us to settle the warrants or the underlying shares by paying cash or other assets, and warrants that must or may require settlement by issuing variable number of shares. If warrants do not meet the liability classification under ASC 480-10, we assess the requirements under ASC 815-40, which states that contracts that require or may require the issuer to settle the contract for cash are liabilities recorded at fair value, irrespective of the likelihood of the transaction occurring that triggers the net cash settlement feature. If the warrants do not require liability classification under ASC 815-40, in order to conclude equity classification, we also assess whether the warrants are indexed to our common stock and whether the warrants are classified as equity under ASC 815-40 or other GAAP. After all such assessments, we conclude whether the warrants are classified as liability or equity. Liability classified warrants require fair value accounting at issuance and subsequent to initial issuance with all changes in fair value after the issuance date recorded in the statements of operations. Equity classified warrants only require fair value accounting at issuance with no changes recognized subsequent to the issuance date. We do not have any liability classified warrants as of any period presented. See Note 7 to our financial statements included elsewhere in this Report.

Stock-based compensation

We recognize compensation expense related to share-based payments in accordance with ASC 718, *Compensation - Stock Compensation* ("ASC 718"), which requires the measurement and recognition of compensation expense for share-based payment awards made to directors and employees based on estimated fair values. We estimate the fair value of employee stock-based payment awards on the grant-date and recognize the resulting fair value over the requisite service period on a straight-line basis. For stock-based awards that vest only upon the attainment of one or more performance goals, compensation cost is recognized if and when we determine that it is probable that the performance condition or conditions will be, or have been, achieved. We utilize the Black-Scholes option pricing model for determining the fair value of stock options. Our determination of fair value of share-based payment awards on the date of grant using an option-pricing model is affected by our stock price as well as assumptions regarding a number of complex and subjective variables. These variables include, but are not limited to, expected stock price volatility over the term of the awards, and actual and projected employee stock option exercise behaviors. For the years ended December 31, 2019 and 2018, we estimated the expected volatility using our own stock price volatility to the extent applicable or a combination of our stock price volatility and the stock price volatility of stock of peer companies, for a period equal to the expected term of the options. The expected term of options granted is based on our own experience and, in part, based upon the "simplified method" provided under *Staff Accounting Bulletin, Topic 14*, or SAB Topic 14, as necessary. The risk-free rate is based on the U.S. Treasury rates in effect during the corresponding period of grant. Although the fair value of employee stock options is determined in accordance with FASB guidance, the key inputs and assumptions may change as we develop our own company estimates, experience and key inputs including our expected term, and stock price volatility based on the trading history of our stock on the NYSE American. Changes in these subjective assumptions can materially affect the estimated value of equity grants and the stock-based compensation that we record in our financial statements.

Leases

On January 1, 2019, we adopted Accounting Standards Update 2016-02, *Leases* (Topic 842, "ASC 842") and its subsequent amendments affecting Oncocyte: (i) ASU 2018-10, *Codification Improvements to Topic 842, Leases,* and (ii) ASU 2018-11, *Leases (Topic 842): Targeted improvements,* using the modified retrospective method. Under ASC 842, we are required to recognize right-of-use ("ROU") assets and lease liabilities on the balance sheet for those leases classified as operating leases, by present valuing the lease payments using a discount rate determined in accordance with ASC 842. Under the standard, we are also required to make certain disclosures to meet the objective of enabling users of financial statements to assess the amount, timing, and uncertainty of cash flows arising from leases. We determine if an arrangement is a lease at inception. Leases are classified as either financing or operating, with classification affecting the pattern of expense recognition in the statements of operations. When determining whether a lease is a finance lease or an operating lease, ASC 842 does not specifically define criteria to determine "major part of remaining economic life of the underlying asset" and "substantially all of the fair value of the underlying asset." For lease classification determination, we continue to use (i) 75% or greater to determine whether the lease term is a major part of the remaining economic life of the underlying asset and (ii) 90% or greater to determine whether the present value of the sum of lease payments is substantially of the fair value of the underlying asset. We use either the rate implicit in the lease or our incremental borrowing rate as the discount rate in lease accounting, as applicable, to present value the operating lease payments.

Upon adoption of ASC 842 and based on the available practical expedients under that standard, we did not reassess any expired or existing contracts, reassess the lease classification for any expired or existing leases and reassess initial direct costs for exiting leases. We also elected not to capitalize leases that have terms of twelve months or less.

The adoption of ASC 842 did not have a material impact to our financial statements because we did not have any significant operating leases at the time of adoption. Our accounting for financing leases (previously referred to as "capital leases") remained substantially unchanged. During the year ended December 31, 2019, we entered into various operating leases and an embedded operating lease in accordance with ASC 842 discussed in Notes 5 and 10 to our financial statements included elsewhere in this Report.

Impairment of long-lived assets

We assess the impairment of long-lived assets, which consists primarily of long-lived intangible assets, machinery and equipment, whenever events or changes in circumstances indicate that such assets might be impaired and the carrying value may not be recoverable. If events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable and the expected undiscounted future cash flows attributable to the asset are less than the carrying amount of the asset, an impairment loss equal to the excess of the asset's carrying value over its fair value is recorded.

Income taxes

We account for income taxes in accordance with ASC 740, *Income Taxes*, which prescribes the use of the asset and liability method, whereby deferred tax asset or liability account balances are calculated at the balance sheet date using current tax laws and rates in effect. Valuation allowances are established when necessary to reduce deferred tax assets when it is more likely than not that a portion or all of the deferred tax assets will not be realized. Our judgments regarding future taxable income may change over time due to changes in market conditions, changes in tax laws, tax planning strategies or other factors. If our assumptions and consequently our estimates change in the future, the valuation allowance may be increased or decreased, which may have a material impact on our statements of operations.

The guidance also prescribes a recognition threshold and a measurement attribute for the financial statement recognition and measurement of tax positions taken or expected to be taken in a tax return. For those benefits to be recognized, a tax position must be more-likely-than-not sustainable upon examination by taxing authorities. We will recognize accrued interest and penalties, if any, related to unrecognized tax benefits as income tax expense. No amounts were accrued for the payment of interest and penalties as of the financial statement periods presented herein. We account for uncertain tax positions by assessing all material positions taken in any assessment or challenge by relevant taxing authorities. We are currently unaware of any tax issues under review. See Note 9 to our financial statements included elsewhere in this Report.

Shared Facilities Agreement

From October 2009 through December 2019, Oncocyte and Lineage were parties to a Shared Facilities and Services Agreement (the "Shared Facilities Agreement") pursuant to which Oncocyte used a portion of Lineage's office and laboratory facilities and equipment and the services of Lineage administrative personnel. Since October 1, 2019, Oncocyte has relied on its own administrative personnel rather than the services of Lineage personnel, and effective December 31, 2019 Oncocyte terminated its use of Lineage's office and laboratory facilities and equipment.

Under the Shared Facilities Agreement, Lineage charged Oncocyte a "Use Fee" for services rendered and Oncocyte's use of Lineage facilities, equipment, and supplies. Use Fees were determined based upon an allocation of Lineage's costs for providing personnel, equipment, insurance, office and laboratory space, professional services, software, supplies and utilities, plus a 5% markup. In addition to the Use Fees, Oncocyte reimbursed Lineage for any out of pocket costs incurred by Lineage for the purchase of office supplies, laboratory supplies, and other goods and materials and services for the account or use of Oncocyte based on invoices documenting such costs. Oncocyte's research and development expenses and general and administrative expenses for the periods presented in this Report include allocations of Use Fees and other amounts paid to Lineage under the Shared Facilities Agreement, in addition to costs incurred directly by Oncocyte for its own personnel, service providers, equipment, supplies, insurance, and similar expense, and for use and operation of its own leased facilities.

Research and development expenses

Research and development expenses include both direct expenses incurred by Oncocyte and indirect overhead costs allocated to us by Lineage that benefit or support our research and development functions of Oncocyte. Direct research and development expenses consist primarily of personnel costs and related benefits, including stock-based compensation, outside consultants and suppliers. Indirect research and development expenses allocated to us by Lineage under the Shared Facilities Agreement (see Note 4 to our financial statements included elsewhere in this Report), are primarily based on our headcount or space occupied, as applicable, and include laboratory supplies, laboratory expenses, rent and utilities, common area maintenance, telecommunications, property taxes and insurance. Research and development costs are expensed as incurred.

General and administrative expenses

General and administrative expenses include both direct expenses incurred by Oncocyte and indirect overhead costs allocated to us by Lineage that benefit or support our general and administrative functions. Direct general and administrative expenses consist primarily of compensation and related benefits, including stock-based compensation, for executive and corporate personnel, and professional and consulting fees. Indirect general and administrative expenses allocated to us by Lineage under the Shared Facilities Agreement (see Note 4 to our financial statements included elsewhere in this Report) are primarily based on our headcount or space occupied, as applicable, and include costs for financial reporting and compliance, rent and utilities, common area maintenance, telecommunications, property taxes and insurance.

Sales and marketing expenses

Sales and marketing expenses consist primarily of personnel costs and related benefits, including stock-based compensation, and expenses incurred for trade shows and booths, branding and positioning, and outside consultants. Indirect sales and marketing expenses allocated by Lineage, primarily based on our headcount or space occupied, as applicable, include costs for rent and utilities, common area maintenance, telecommunications, property taxes and insurance, incurred by Lineage and allocated to us under the Shared Facilities Agreement.

Results of Operations

Comparison of the Years Ended December 31, 2019 and 2018

The following tables show our operating expenses for the years ended December 31, 2019 and 2018 (in thousands).

	Year Ended December 31,		$ Increase/	$ Increase/
	2019	2018	(Decrease)	(Decrease)
Research and development expenses	$ 6,794	$ 6,514	$ 280	4.3%
General and administrative expenses	13,281	7,007	6,274	89.5%
Sales and marketing expenses	2,164	1,681	483	28.7%

Research and development expenses

Research and development expenses for the year ended December 31, 2019 increased to $6.8 million from $6.5 million during 2018, an increase of $0.3 million. This increase in research and development expenses is primarily attributable to an increase in personnel and related expenses, including noncash stock-based compensation expense.

We expect to continue to incur a significant amount of research and development expenses during the foreseeable future. Among other expenses, future research and development expenses will include costs for the continued development of DetermaDx™, DetermaIO™, clinical trials to promote commercialization of DetermaRx™, and costs of leasing and operating our CLIA laboratories in California and Tennessee.

General and administrative expenses

General and administrative expenses for the year ended December 31, 2019 increased to $13.3 million from $7.0 million during 2018, an increase of $6.3 million. The largest components of the increase in general and administrative expenses were: $1.6 million in personnel and related expenses, including $0.4 million for management transition costs; $1.1 million in noncash stock-based compensation expense; $1.4 million in investment banking, business development and related expenses; $1.1 million in legal, license, patent and patent fee expenses; and $0.6 million in investor relations expenses including a $0.2 million non-cash expenses for certain warrants issued for capital market and other advisory services.

As discussed above, we are no longer receiving services or use of facilities from Lineage under the Shared Facilities Agreement. We have hired our own accounting and administrative personnel and we are now bearing the full cost of their compensation and employee benefits, and we have acquired our own leased office and laboratory facilities and are bearing directly lease and other operating costs related to those facilities. Our general and administrative expenses are expected to increase as we replace services from Lineage with services from our own employees and lease and operate our own office and laboratory facilities.

Sales and marketing expenses

Sales and marketing expenses for the year ended December 31, 2019 increased to $2.2 million from $1.7 million during 2018. This $0.5 million increase was primarily attributable to consulting expenses for marketing, commercialization and rebranding activities we commenced in the latter part of 2019, mainly for the commercial launch of DetermaRx™.

Although we had a relatively small increase in our sales and marketing expenses during the year ended December 31, 2019, in late May 2019, we hired a Sr. Vice President of Marketing and Market Access, and in late 2019 and January 2020 we hired sales representatives and increased sales and marketing related activities for our DetermaRx™ commercialization efforts. As a result, we expect that our sales and marketing expenses will increase significantly as we continue to pursue the commercialization of DetermaRx™, and begin commercialization of DetermaDx™, DetermaIO™, and any other diagnostic tests that we may successfully develop or acquire. Our sales and marketing efforts, and the amount of related expenses that we will incur in the near term will largely depend upon the degree of success we have in commercializing DetermaRx™, and whether we can successfully complete the development and commercialization of DetermaDx™ and DetermaIO™. Our commercialization efforts and expenses will also depend on the amount of capital that we are able to raise to finance commercialization of our diagnostic tests. Our current cash resources will require us to limit our initial sales and marketing efforts unless and until we are able to raise additional capital. Our future expenditures on sales and marketing will also depend on the amount of revenue that those efforts are likely to generate. Because physicians are more likely to prescribe a test for their patients if the cost is covered by Medicare or health insurance, demand for our diagnostic tests and our expenditures on sales and marketing are likely to increase if our diagnostic or other tests qualify for reimbursement by Medicare and private health insurance companies.

Other income and expenses, net

Other income and expenses, net, is primarily comprised of interest income and interest expenses, net, pro rata loss from our equity method investment in Razor, and unrealized gains and losses on Lineage and AgeX Therapeutics, Inc. ("AgeX") marketable equity securities we hold. Interest income is earned from money market funds we hold for capital preservation. Interest expense was incurred under our loan payable to the Silicon Valley Bank and under financing lease obligations. We also recognized a noncash loss on extinguishment of debt of $0.2 million from the refinancing of Silicon Valley Bank loan in October 2019. Interest income, net, reflects the excess of income earned on our money market fund holdings in excess of interest expense payable on our bank loan and financing lease obligations.

For the year ended December 31, 2019, we recorded interest income, net, of $0.3 million mainly from our money market fund investments for capital preservation. For the year ended December 31, 2018, we recorded interest expense, net, of $0.2 million from our bank loan and financing leases. For the year ended December 31, 2019, we recorded an insignificant amount of unrealized loss from the fair market value decrease of the marketable equity securities we hold in shares Lineage and AgeX common stock, and for the year ended December 31, 2018, we recorded an unrealized loss of $0.4 million due to the decrease in fair market value of those marketable equity securities from the applicable balance sheet dates. We did not sell any marketable securities during any of the periods presented. As of December 31, 2019 and 2018, we held marketable equity securities with a total fair market value of $0.4 million as of each date, respectively.

Our Razor equity method investment of $11.245 million we made in September 2019 is being amortized over a 10-year useful life of the DetermaRx™ test, which is reflected in other income and operating expenses, net, as a pro rata loss in our equity method investment in Razor; accordingly, for the year ended December 31, 2019, the pro rata noncash loss recorded from our Razor equity method investment was $0.3 million.

Income taxes

As of December 31, 2019, we have net operating loss carryforwards of approximately $79.7 million for U.S. federal income tax purposes and $52.1 million for state income tax purposes. Federal net operating losses generated on or prior to December 31, 2017, expire in varying amounts between 2030 and 2037, while federal net operating losses generated after December 31, 2017, carryforward indefinitely. The state net operating losses expire in varying amounts between 2029 and 2039. We also have capital loss carryforwards for federal and state income tax purposes of $0.7 million each, which expire between 2020 and 2023.

As of December 31, 2019, we have research and development credit carryforwards for federal and state purposes of $1.4 million and $1.5 million, respectively. The federal credits will expire between 2030 and 2039, while the state credits have no expiration.

A valuation allowance is provided when it is more likely than not that some portion of the deferred tax assets will not be realized. We established a full valuation allowance for all periods presented due to the uncertainty of realizing future tax benefits from our net operating loss carryforwards and other deferred tax assets. Accordingly, due to losses incurred for all periods presented, we did not record any provision or benefit for income taxes.

Liquidity and Capital Resources

Since inception, we have financed our operations through the sale of our common stock, warrants, warrant exercises, bank loans, and sales of Lineage common shares that we hold as marketable equity securities. Lineage has also provided Oncocyte with the use of Lineage facilities and services under the Shared Facilities Agreement, which was terminated as of December 31, 2019. We have incurred operating losses and negative cash flows since inception and had an accumulated deficit of $93.7 million at December 31, 2019. We expect to continue to incur operating losses and negative cash flows for the near future.

At December 31, 2019, we had $22.1 million of cash and cash equivalents and held shares of Lineage and AgeX common stock as marketable equity securities valued at $0.4 million.

On October 17, 2019, we refinanced our loan with Silicon Valley Bank as further discussed in Note 6 to our financial statements included elsewhere in this Report. The outstanding principal amount of the loan, with interest accrued, the final payment fee, and the prepayment fee may become due and payable prior to the applicable maturity date if an "Event of Default" as defined in the Loan and Security Agreement, as amended governing the loan (the "Loan Agreement") occurs and is not cured within any applicable cure period. Upon the occurrence and during the continuance of an Event of Default, all obligations due to the Bank will bear interest at a rate per annum which is 5% above the then applicable interest rate. An Event of Default includes, among other events, failure to pay interest and principal when due, material adverse changes, which include a material adverse change in Oncocyte's business, operations, or condition (financial or otherwise), failure to provide the bank with timely financial statements and copies of filings with the SEC, as required, legal judgments or pending or threatened legal actions of $50,000 or more, insolvency, and delisting from the NYSE American. Oncocyte's obligations under the Loan Agreement are collateralized by substantially all of its assets other than intellectual property such as patents and trade secrets that Oncocyte owns. Accordingly, if an Event of Default were to occur and not be cured, the Bank could foreclose on its security interest in the collateral. We are in compliance with the Loan Agreement, as amended, as of the filing date of this Report.

In January 2020, we entered into a series of stock purchase agreements pursuant to which we sold a total of 3,523,776 shares of common stock for approximately $7.6 million in cash in an offering registered under the Securities Act of 1933, as amended (the "Securities Act"). On March 20, 2020, we entered into an Equity Distribution Agreement with Piper Sandler & Co as "Sales Agent" ("ATM Agreement") which we may utilize in the future to raise up to $25 million of additional equity capital through the sale of shares of our common stock in "at the market" transactions through the Sales Agent. We believe that our current cash, cash equivalents, marketable equity securities, and our access to additional capital through the ATM Agreement are sufficient to carry out our current operations through at least twelve months from the issuance date of the financial statements included in this Report.

We expect that our operating expenses will increase as we build an integrated marketing and sales force and add new equipment and personnel to our CLIA laboratories to commercialize DetermaRx™, followed by DetermaDx™ and DetermaIO™ after development is completed. We will also incur additional operating expenses as we explore or commence the development of, or acquire, additional diagnostic tests. Additional expenses will also arise from leasing and improving our new office and laboratory facilities in Irvine California that will replace our reliance on Lineage's facilities under the Shared Facilities Agreement, and from operating additional CLIA laboratories in Brisbane, California and Nashville, Tennessee. We do not expect to generate significant revenues from marketing our diagnostic tests until we receive Medicare reimbursement approval for those tests and are able perform those tests for physicians and their patients. We may also explore a range of other commercialization options in order to reduce our capital needs and expenditures and the risks associated the timelines and uncertainty for attaining the Medicare reimbursement approvals that will be essential for the successful commercialization of our cancer diagnostic tests. Those alternative arrangements could include marketing arrangements with other diagnostic companies through which we might receive a royalty on sales, or through which we might form a joint venture to market one or more tests and share in net revenues.

We will need to continue to raise additional capital to finance our operations, including the development and commercialization of our diagnostic tests, and making payments that become due under our obligations to Razor shareholders and Insight shareholders, until such time as we are able to generate sufficient revenues to cover our operating expenses. Delays in the development of DetermaDx™ or DetermaIO™, or both, or obtaining reimbursement coverage from Medicare for our diagnostic tests could prevent us from raising sufficient additional capital to finance the completion of development and commercial launch of those tests. Investors may be reluctant to provide us with capital until our tests are approved for reimbursement by Medicare or reimbursement by private healthcare insurers or healthcare providers. The unavailability or inadequacy of financing or revenues to meet future capital needs could force us to modify, curtail, delay, or suspend some or all aspects of our planned operations. Sales of additional equity securities could result in the dilution of the interests of our shareholders. We cannot assure that adequate financing will be available on favorable terms, if at all.

Cash used in operating activities

During the years ended December 31, 2019 and 2018, our total research and development expenses were $6.8 million and $6.5 million, respectively, our general and administrative expenses were $13.3 million and $7.0 million, respectively, and our sales and marketing expenses were $2.2 million and $1.7 million, respectively. Net loss for the years ended December 31, 2019 and 2018 amounted to $22.4 million and $15.8 million, respectively, and net cash used in operating activities amounted to $19.7 million and $11.6 million, respectively. Our cash used in operating activities during 2019 does not include the following noncash items: $3.0 million in stock-based compensation; $0.3 million in depreciation expense; $0.3 million in pro rata loss from our equity method investment in Razor; and $0.2 million for warrants issued for capital market and other advisory services. The amount of cash used in operations reflects the payment of obligations accrued during prior periods, including a payment of approximately $2.1 million to Lineage for accrued Use Fees under the Shared Facilities Agreement. Changes in working capital were approximately $1.6 million as a use of cash, which includes the $2.1 million payment to Lineage for accrued Use Fees.

Cash used in investing activities

During the year ended December 31, 2019, net cash used in investing activities was $12.4 million, primarily attributable to the $11.245 million investment we made in Razor and $0.9 million in purchases of machinery and equipment principally for our laboratories.

Cash provided by financing activities

During the year ended December 31, 2019, cash provided by financing activities was $47.9 million. We received $45.6 million in net cash proceeds from the sale of 15.8 million shares of our common stock during the year, $2.5 million in net loan proceeds from refinancing our bank loan in October 2019, and $0.9 million from exercises of stock options. These cash inflows were offset by $0.7 million of principal payments for our bank loan prior to the refinancing and $0.4 million used to repay our financing lease obligations.

Off-Balance Sheet Arrangements

As of December 31, 2019, we did not have any off-balance sheet arrangements, as defined in Item 303(a)(4)(ii) of SEC Regulation S-K.

Item 7A. Quantitative and Qualitative Disclosures about Market Risk

Under SEC rules and regulations, as a smaller reporting company, we are not required to provide the information required by this item.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Stockholders and Board of Directors
OncoCyte Corporation
Irvine, California

Opinion on the Financial Statements

We have audited the accompanying balance sheets of OncoCyte Corporation (the "Company") as of December 31, 2019 and 2018, the related statements of operations, comprehensive loss, shareholders' equity, and cash flows for each of the two years in the period ended December 31, 2019, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2019 and 2018, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2019**,** in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

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

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the 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 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 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 financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ OUM & CO. LLP

San Francisco, California
March 25, 2020
We have served as the Company's auditor since 2015.

Item 8. Financial Statements and Supplementary Data

ONCOCYTE CORPORATION
BALANCE SHEETS
(*In thousands*)

	December 31,	
	2019	**2018**
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	$ 22,072	$ 8,034
Marketable equity securities	379	428
Prepaid expenses and other current assets	505	180
Total current assets	22,956	8,642
NONCURRENT ASSETS		
Right-of-use assets, machinery and equipment, net	3,728	614
Deposits and other noncurrent assets	2,211	262
Equity method investment in Razor	10,964	-
TOTAL ASSETS	$ 39,859	$ 9,518
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES		
Amount due to Lineage and affiliates	$ 6	$ 2,101
Accounts payable	469	166
Accrued expenses and other current liabilities	2,610	2,109
Loan payable, current	1,125	800
Right-of-use and financing lease liabilities, current	230	385
Total current liabilities	4,440	5,561
NONCURRENT LIABILITIES		
Loan payable, net of deferred financing costs, noncurrent	1,905	347
Right-of-use and financing lease liabilities, noncurrent	2,676	187
TOTAL LIABILITIES	9,021	6,095
Commitments and contingencies (Note 10)		
SHAREHOLDERS' EQUITY		
Preferred stock, no par value, 5,000 shares authorized; none issued and outstanding	-	-
Common stock, no par value, 85,000 shares authorized; 57,032 and 40,664 shares issued and outstanding at December 31, 2019 and 2018, respectively	124,583	74,742
Accumulated other comprehensive loss	-	-
Accumulated deficit	(93,745)	(71,319)
Total shareholders' equity	30,838	3,423
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	$ 39,859	$ 9,518

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

ONCOCYTE CORPORATION
STATEMENTS OF OPERATIONS
(In thousands, except per share data)

	Year Ended December 31,	
	2019	**2018**
OPERATING EXPENSES		
Research and development	$ 6,794	$ 6,514
General and administrative	13,281	7,007
Sales and marketing	2,164	1,681
Total operating expenses	22,239	15,202
Loss from operations	(22,239)	(15,202)
OTHER INCOME (EXPENSES), NET		
Loss on extinguishment of debt	(153)	-
Interest income (expense), net	299	(216)
Unrealized loss on marketable equity securities	(49)	(427)
Pro rata loss from equity method investment in Razor	(281)	-
Other income (expense), net	(3)	91
Total other expenses, net	(187)	(552)
NET LOSS	$ (22,426)	$ (15,754)
Net loss per share; basic and diluted	$ (0.44)	$ (0.42)
Weighted average shares outstanding; basic and diluted	51,296	37,850

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

ONCOCYTE CORPORATION
STATEMENTS OF COMPREHENSIVE LOSS
(In thousands)

	Year Ended December 31,	
	2019	**2018**
NET LOSS	$ (22,426)	$ (15,754)
Other comprehensive loss, net of tax	-	-
COMPREHENSIVE LOSS	$ (22,426)	$ (15,754)

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

ONCOCYTE CORPORATION
STATEMENTS OF SHAREHOLDERS' EQUITY
(In thousands)

	Common Stock		Accumulated Other Comprehensive	Accumulated	Total Shareholders'
	Shares	Amount	Loss	Deficit	Equity
BALANCE AT DECEMBER 31, 2017	31,452	$ 59,968	$ (888)	$ (54,677)	$ 4,403
Net loss	-	-	-	(15,754)	(15,754)
Cumulative-effect adjustment for adoption of ASU 2016-01 on January 1, 2018	-	-	888	(888)	-
Stock-based compensation	-	1,479	-	-	1,479
Sale of common shares and warrants	9,192	13,592	-	-	13,592
Financing costs paid to issue common shares	-	(355)	-	-	(355)
Exercise of stock options	20	58	-	-	58
BALANCE AT DECEMBER 31, 2018	40,664	$ 74,742	$ -	$ (71,319)	$ 3,423
Net loss	-	-	-	(22,426)	(22,426)
Stock-based compensation	-	2,995	-	-	2,995
Sale of common shares	15,793	48,850	-	-	48,850
Financing costs paid to issue common shares	-	(3,317)	-	-	(3,317)
Exercise of stock options	575	943	-	-	943
Issuance of warrants	-	370	-	-	370
BALANCE AT DECEMBER 31, 2019	57,032	$ 124,583	$ -	$ (93,745)	$ 30,838

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

ONCOCYTE CORPORATION
STATEMENTS OF CASH FLOWS
(In thousands)

	Year Ended December 31,	
	2019	**2018**
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	$ (22,426)	$ (15,754)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation expense	344	438
Amortization of intangible assets	-	121
Amortization of right of use assets and liabilities	7	-
Pro rata loss from equity method investment in Razor	281	-
Amortization of prepaid maintenance	37	18
Impairment charge for intangible assets	-	625
Stock-based compensation	2,995	1,479
Dividend income from AgeX Therapeutics common stock received as a dividend-in-kind	-	(96)
Unrealized loss on marketable equity securities	49	427
Amortization of debt issuance costs	59	77
Loss on extinguishment of debt	153	-
Warrants issued for advisory services	234	-
Other	107	23
Changes in operating assets and liabilities:		
Amount due to Lineage and affiliates	(2,094)	2
Prepaid expenses and other current assets	(202)	(11)
Accounts payable and accrued liabilities	741	1,002
Net cash used in operating activities	(19,715)	(11,649)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Equity method investment in Razor	(11,245)	-
Purchase of equipment	(918)	(31)
Security deposit and other	(252)	-
Net cash used in investing activities	(12,415)	(31)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from exercise of stock options	943	58
Proceeds from sale of common shares	48,850	10,000
Financing costs to issue common shares	(3,288)	(65)
Proceeds from sale of common shares and warrants	-	3,592
Financing costs to issue common shares and warrants	-	(290)
Proceeds from refinance of bank loan	3,000	-
Payoff of principal and bank fees from refinancing of bank loan	(516)	-
Repayment of principal of loan payable prior to refinancing	(667)	(800)
Repayment of financing lease obligations	(454)	(381)
Net cash provided by financing activities	47,868	12,114
NET INCREASE IN CASH, CASH EQUIVALENTS AND RESTRICTED CASH	15,738	434
CASH, CASH EQUIVALENTS AND RESTRICTED CASH:		
At beginning of the year	8,034	7,600
At end of the year	$ 23,772	$ 8,034
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION		
Cash paid for interest	$ 171	$ 142
SUPPLEMENTAL SCHEDULE OF NONCASH FINANCING AND INVESTING ACTIVITIES		
See Note 10 for additional disclosures		
Deferred final commitment fee for bank loan	$ 200	$ -
Equipment purchased under financing leases	-	209

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

ONCOCYTE CORPORATION
NOTES TO FINANCIAL STATEMENTS

1. Organization, Description of the Business and Liquidity

OncoCyte Corporation ("Oncocyte"), incorporated in 2009 in the state of California, is a molecular diagnostics company focused on developing and commercializing proprietary laboratory-developed tests ("LDTs") to serve unmet medical needs across the cancer care continuum. Oncocyte's mission is to provide actionable information to physicians and patients at critical decision points to optimize diagnosis and treatment decisions, improve patient outcomes, and reduce overall cost of care. Oncocyte has prioritized lung cancer as its first indication. Lung cancer remains the leading cause of cancer death in the United States, despite the availability of molecular testing and novel therapies to treat patients.

Oncocyte's first product for commercial release is a proprietary treatment stratification test called DetermaRx™ that identifies which patients with early stage non-small cell lung cancer may benefit from chemotherapy, resulting in a significantly higher, five-year survival rate. Oncocyte is also developing DetermaDx™, as a proprietary non-invasive blood test using molecular markers to determine whether lung nodules detected through imaging are unlikely to be malignant, with the goal of reducing the number of unnecessary invasive and expensive diagnostic biopsy procedures.

Oncocyte holds a 25% equity interest in Razor Genomics, Inc. ("Razor"), a privately held company, developing a proprietary treatment stratification laboratory test to assist physicians in the management of non-small cell lung cancer. Razor's key product is a commercially ready treatment stratification test called "DetermaRx™" for early stage lung cancer. Oncocyte has licensed all rights to commercialize DetermaRx™ and plans to conduct certain clinical trials for purposes of promoting commercialization (see Note 5).

On January 31, 2020 (the "Merger Date"), Oncocyte completed its acquisition of Insight Genetics, Inc. ("Insight"), pursuant to an Agreement and Plan of Merger, dated as of January 10, 2020 (the "Merger Agreement"), pursuant to which a newly incorporated wholly-owned subsidiary of Oncocyte ("Merger Sub") merged with and into Insight such that the separate existence of Merger Sub ceased and Insight survived as a wholly-owned subsidiary of Oncocyte (the "Merger").

Prior to the Merger, Insight was a privately held company specializing in the discovery, development and commercialization of the multi-gene molecular, laboratory-developed diagnostic tests that Oncocyte has branded as DetermaIO™. Oncocyte entered into the Merger Agreement to acquire Insight's technology and pharma service offerings. Insight has a CLIA-certified diagnostic laboratory with the capacity to support clinical trials or assay design on certain commercially available analytic platforms that may be used to develop additional diagnostic tests. Insight has also performed assay development and clinical testing for pharmaceutical and biotechnology companies. See Note 11 for further discussion of the Merger.

Oncocyte is currently devoting substantially all of its efforts on developing and commercializing its lung cancer diagnostic tests DetermaDx™, DetermaRx™ and DetermaIO™.

Liquidity

For all periods presented, Oncocyte generated no revenues. Since inception, Oncocyte has financed its operations through the sale of common stock, warrants, warrant exercises, bank loans, and sales of Lineage Cell Therapeutics, Inc. ("Lineage") common shares that it holds as marketable equity securities. Lineage also provided Oncocyte with accounting, billing, bookkeeping, payroll, treasury, payment of accounts payable, and other similar administrative services, and the use of Lineage office and laboratory facilities, under a Shared Facilities and Services Agreement (the "Shared Facilities Agreement"), which was terminated as to all services on September 30, 2019, and as to all use of facilities on December 31, 2019 (see Note 4). Oncocyte has incurred operating losses and negative cash flows since inception and had an accumulated deficit of $93.7 million as of December 31, 2019. Oncocyte expects to continue to incur operating losses and negative cash flows for the foreseeable future.

At December 31, 2019, Oncocyte had $22.1 million of cash and cash equivalents and held Lineage and AgeX Therapeutics, Inc. ("AgeX") common stock as marketable equity securities with a combined fair market value of $0.4 million. In January 2020, Oncocyte entered into a series of stock purchase agreements pursuant to which Oncocyte sold a total of 3,523,776 shares of common stock for approximately $7.6 million in cash in an offering registered under the Securities Act of 1933, as amended (the "Securities Act") (see Note 11). On March 20, 2020, Oncocyte entered into an Equity Distribution Agreement with Piper Sandler & Co for an at-the-market sales agreement ("ATM Agreement") with Piper Sandler & Co. (the "Sales Agent"), in which Oncocyte may utilize to raise up to $25 million of additional equity capital through the sale of shares of Oncocyte common stock from time to time, if necessary, in at-the-market transactions through the Sales Agent (see Note 11). Oncocyte believes that its current cash, cash equivalents and marketable equity securities, and its access to additional capital through the ATM Agreement are sufficient to carry out current operations through at least twelve months from the issuance date of the financial statements included in this Report.

Oncocyte will need to raise additional capital to finance its operations, including the development and commercialization of its cancer diagnostic tests, until such time as it is able to complete development and commercialize one or more tests and generate sufficient revenues to cover its operating expenses. Presently, Oncocyte is devoting substantially all of its efforts on developing and commercializing its cancer diagnostic tests DetermaDx™, DetermaRx™ and DetermaIO™. Oncocyte may also explore a range of other commercialization options in order to reduce capital needs and the risks associated with the timelines and uncertainty for attaining the Medicare and commercial reimbursement approvals that will be essential for the successful commercialization of Oncocyte's cancer tests. Those alternative arrangements could include marketing arrangements with other diagnostic companies through which Oncocyte might receive a royalty on sales, or through which it might form a joint venture to market its cancer tests and share in net revenues.

Delays in the development of DetermaDx™ or DetermaIO™, or both, or obtaining reimbursement coverage from Medicare for Oncocyte's cancer diagnostic tests could prevent it from raising sufficient additional capital to finance the completion of development and commercial launch of those tests. Investors may also be reluctant to provide Oncocyte with capital until its tests are approved for reimbursement by Medicare or private insurers or healthcare providers. The unavailability or inadequacy of financing or revenues to meet future capital needs could force Oncocyte to modify, curtail, delay, or suspend some or all aspects of planned operations. Sales of additional equity securities could result in the dilution of the interests of its shareholders. Oncocyte cannot assure that adequate financing will be available on favorable terms, if at all.

2. Summary of Significant Accounting Policies

Basis of presentation

The financial statements are presented in accordance with U.S. generally accepted accounting principles ("GAAP"). Prior to February 17, 2017, Lineage consolidated the results of Oncocyte into Lineage's consolidated results based on Lineage's ability to control Oncocyte's operating and financial decisions and policies through its then majority ownership of Oncocyte common stock. Beginning on February 17, 2017, Lineage's percentage ownership of the outstanding Oncocyte common stock declined below 50%, resulting in a loss of "control" of Oncocyte under GAAP and, as a result, Lineage deconsolidated Oncocyte's financial statements from Lineage's consolidated financial statements. As a result of this deconsolidation, Oncocyte is no longer considered a subsidiary of Lineage under GAAP with effect from February 17, 2017. As of December 31, 2019, because Lineage's ownership interest in Oncocyte decreased to below 20%, Lineage no longer exercises significant influence over the operations and management of Oncocyte. As of the date of this Report, Lineage's ownership interest in Oncocyte is below 10%. However, Oncocyte may still be considered an affiliate of Lineage.

Through the year ended December 31, 2019, to the extent Oncocyte did not have its own employees or human resources for its operations, Lineage or Lineage subsidiaries provided certain employees for administrative or operational services, as necessary, for the benefit of Oncocyte (see Note 4). Accordingly, Lineage allocated expenses such as salaries and payroll related expenses incurred and paid on behalf of Oncocyte based on the amount of time that particular employees devoted to Oncocyte affairs. Other expenses such as legal, accounting, human resources, marketing, travel, and entertainment expenses were allocated to Oncocyte to the extent that those expenses were incurred by or on behalf of Oncocyte. Lineage also allocated certain overhead expenses such as facilities rent and utilities, property taxes, insurance, internet and telephone expenses based on a percentage determined by management. These allocations have been made based upon activity-based allocation drivers such as time spent, percentage of square feet of office or laboratory space used, and percentage of personnel devoted to Oncocyte's operations or management. Management has evaluated the appropriateness of the percentage allocations on a periodic basis and believes that this basis for allocation is reasonable.

Use of estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. On an ongoing basis, management evaluates estimates which are subject to significant judgment, including those related to the going concern assessments of Oncocyte financial statements, allocation of direct and indirect expenses, useful lives associated with long-lived intangible assets, equipment and furniture, key assumptions in operating and financing leases, including incremental borrowing rates, loss contingencies, valuation allowances related to deferred income taxes, and assumptions used to value stock-based awards, debt or other equity instruments. Actual results could differ materially from those estimates.

Going concern assessment

In accordance with FASB's standard on going concern, Accounting Standard Update, or ASU No. 2014-15, Oncocyte assesses going concern uncertainty in its financial statements to determine if it has sufficient cash, cash equivalents and working capital on hand, including marketable equity securities, and any available borrowings on loans, to operate for a period of at least one year from the date the financial statements are issued, which is referred to as the "look-forward period" as defined by ASU No. 2014-15. As part of this assessment, based on conditions that are known and reasonably knowable to Oncocyte, it will consider various scenarios, forecasts, projections, estimates and will make certain key assumptions, including the timing and nature of projected cash expenditures or programs, and its ability to delay or curtail expenditures or programs, if necessary, among other factors. Based on this assessment, as necessary or applicable, Oncocyte makes certain assumptions around implementing curtailments or delays in the nature and timing of programs and expenditures to the extent Oncocyte deems probable those implementations can be achieved and it has the proper authority to execute them within the look-forward period in accordance with ASU No. 2014-15.

Fair value measurements

Oncocyte accounts for fair value measurements in accordance with Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") 820, *Fair Value Measurements* ("ASC 820"). ASC 820 establishes a single authoritative definition of fair value, sets out a framework for measuring fair value and expands on required disclosures about fair value measurement. Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. ASC 820 describes a fair value hierarchy based on three levels of inputs, of which the first two are considered observable and the last unobservable, that may be used to measure fair value, which are the following:

- *Level 1* – Quoted prices in active markets for identical assets and liabilities.
- *Level 2* – Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted market prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.
- *Level 3* – Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

In determining fair value, Oncocyte utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible, and also considers counterparty credit risk in its assessment of fair value. For the periods presented, Oncocyte has no financial assets or liabilities recorded at fair value on a recurring basis, except for cash and cash equivalents consisting of money market funds and marketable equity securities of Lineage and AgeX common stock held by Oncocyte described below. These assets are measured at fair value using the period-end quoted market prices as a Level 1 input.

The carrying amounts of cash equivalents, prepaid expenses and other current assets, amounts due to Lineage and other affiliates, accounts payable, accrued expenses and other current liabilities approximate fair values because of the short-term nature of these items.

The carrying amount of the Loan Payable to Silicon Valley Bank approximates fair value because the loan bears interest at a floating market rate (see Note 6).

Cash and cash equivalents

Cash equivalents typically consist of money market fund investments for capital preservation, with maturities of three months or less when purchased. At December 31, 2019 and 2018, Oncocyte's cash and cash equivalents balances totaled $22.1 million and $8.0 million, respectively.

Financial instruments that potentially subject Oncocyte to credit risk consist principally of cash and cash equivalents. Oncocyte maintains cash and cash equivalent balances at financial institutions in excess of amounts insured by United States government agencies. Oncocyte places its cash and cash equivalents with high credit quality financial institutions.

Restricted cash

Oncocyte classifies cash that has contractual or legal restrictions imposed by third parties as restricted cash, which is restricted as to withdrawal or use except for the specified purpose under a contract. Oncocyte includes the restricted cash consistent with the nature of the underlying contract and classifies it as part of current assets if the restricted cash will be released in the next twelve months from the balance sheet date, or in deposits and other noncurrent assets if it will be restricted for longer than twelve months from the balance sheet date.

Oncocyte adopted ASU 2016-18, *Statement of Cash Flows (Topic 230): Restricted Cash*, which requires that the statement of cash flows explain the change during the period in the total of cash, cash equivalents and restricted cash, and that restricted cash be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statements of cash flows. Prior to the adoption of ASU 2016-18, restricted cash was not included with cash and cash equivalents on the statements of cash flows.

The following table provides a reconciliation of cash, cash equivalents, and restricted cash reported within the balance sheet dates that comprise the total of the same such amounts shown in the statements of cash flows in accordance with ASU 2016-18 (in thousands):

	December 31, 2019	December 31, 2018
Cash and cash equivalents	$ 22,072	$ 8,034
Restricted cash included in deposits and other noncurrent assets (see Note 10)	1,700	-
Total cash, cash equivalents, and restricted cash as shown in the statements of cash flows	$ 23,772	$ 8,034

Investments in common stock of privately held companies

Oncocyte evaluates whether investments held in common stock of other companies require consolidation of the company under, first, the variable interest entity ("VIE") model, and then under the voting interest model in accordance with accounting guidance for consolidations under Accounting Standards Codification ("ASC") 810-10. If consolidation of the entity is not required under either the VIE model or the voting interest model, Oncocyte determines whether the equity method of accounting should be applied in accordance with ASC 323, *Investments – Equity Method and Joint Ventures*. The equity method applies to investments in common stock or in-substance common stock if Oncocyte exercises significant influence over, but does not control, the entity, typically represented by ownership of 20% or more of the voting interests of a company.

Oncocyte initially records equity method investments at fair value on the date of the acquisition with subsequent adjustments to the investment balance based on Oncocyte's share of earnings or losses from the investment. The equity method investment balance is shown in noncurrent assets on the consolidated balance sheets.

Oncocyte reviews investments accounted for under the equity method for impairment whenever events or changes in circumstances indicate that the carrying amount of the investment may not be fully recoverable. If a determination is made that an "other-than-temporary" impairment exists, Oncocyte writes down its investment to fair value. On September 30, 2019, Oncocyte acquired a 25% ownership interest in Razor accounted for under the equity method of accounting as further discussed in Note 5.

Accounting for Lineage and AgeX shares of common stock

Oncocyte accounts for the Lineage shares it holds, including the AgeX shares of common stock received as a dividend-in-kind on November 28, 2018, as marketable equity securities in accordance with ASC 320-10-25, *Investments – Debt and Equity Securities*, as amended by Accounting Standards Update ("ASU") 2016-01, *Financial Instruments–Overall: Recognition and Measurement of Financial Assets and Financial Liabilities*, as the shares have a readily determinable fair value quoted on the NYSE American and are held principally to meet future working capital purposes, as necessary. The securities are measured at fair value and reported as current assets on the balance sheet based on the closing trading price of the security as of the date being presented.

On November 28, 2018, Lineage distributed shares of AgeX common stock owned by Lineage to holders of Lineage common shares, on a pro rata basis, in the ratio of one share of AgeX common stock for every ten Lineage common shares owned. As a shareholder of Lineage common stock, Oncocyte received 35,326 shares of AgeX common stock as its pro rata share and recorded a $96,000 dividend in other income and expenses for the year ended December 31, 2018.

For the year ended December 31, 2018, Oncocyte recorded an unrealized loss of $427,000, included in other income and expenses, net, due to the decrease in fair market value of the Lineage shares from January 1, 2018 to December 31, 2018, and the decrease in the fair market value of the AgeX shares from November 28, 2018 to December 31, 2018.

As of December 31, 2019, Oncocyte held 353,264 and 35,326 shares of common stock of Lineage and AgeX, respectively, as marketable equity securities with a combined fair market value of $379,000.

Machinery and equipment

Machinery and equipment are stated at cost, less accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the assets, generally over a period of 3 to 10 years. For equipment purchased under financing leases, Oncocyte depreciates the equipment based on the shorter of the useful life of the equipment or the term of the lease, ranging from 3 to 5 years, depending on the nature and classification of the financing lease. Maintenance and repairs are expensed as incurred whereas significant renewals and betterments are capitalized. When assets are retired or otherwise disposed of, the cost and the related accumulated depreciation are removed from the respective accounts and any resulting gain or loss is reflected in Oncocyte's results of operations.

Impairment of long-lived assets

Oncocyte assesses the impairment of long-lived assets, which consist primarily of long-lived intangible assets, machinery and equipment, whenever events or changes in circumstances indicate that such assets might be impaired and the carrying value may not be recoverable. If events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable and the expected undiscounted future cash flows attributable to the asset are less than the carrying amount of the asset, an impairment loss equal to the excess of the asset's carrying value over its fair value is recorded.

As part of Oncocyte's impairment assessment of its intangible assets, Oncocyte determined that certain intangible assets, mainly comprised of patents and patent rights for therapeutic uses that Oncocyte no longer plans to develop or commercialize, were impaired as of June 30, 2018 and, accordingly, Oncocyte recorded a noncash charge of $625,000 representing the net book value of those assets as of that date, and included that charge in research and development expenses for the year ended December 31, 2018.

Accounting for warrants

Oncocyte determines the accounting classification of warrants it issues, as either liability or equity classified, by first assessing whether the warrants meet liability classification in accordance with ASC 480-10, *Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity*, then in accordance with ASC 815-40, *Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock*. Under ASC 480, warrants are considered liability classified if the warrants are mandatorily redeemable, obligate Oncocyte to settle the warrants or the underlying shares by paying cash or other assets, or warrants that must or may require settlement by issuing variable number of shares. If warrants do not meet liability classification under ASC 480-10, Oncocyte assesses the requirements under ASC 815-40, which states that contracts that require or may require the issuer to settle the contract for cash are liabilities recorded at fair value, irrespective of the likelihood of the transaction occurring that triggers the net cash settlement feature. If the warrants do not require liability classification under ASC 815-40, and in order to conclude equity classification, Oncocyte also assesses whether the warrants are indexed to its common stock and whether the warrants are classified as equity under ASC 815-40 or other applicable GAAP. After all relevant assessments, Oncocyte concludes whether the warrants are classified as liability or equity. Liability classified warrants require fair value accounting at issuance and subsequent to initial issuance with all changes in fair value after the issuance date recorded in the statements of operations. Equity classified warrants only require fair value accounting at issuance with no changes recognized subsequent to the issuance date. Oncocyte does not have any liability classified warrants as of any period presented (see Note 7).

Income taxes

Oncocyte has filed a standalone U.S. federal income tax return since its inception. For California purposes, Oncocyte activity for 2016 and for the period from January 1, 2017 through February 16, 2017, the date immediately before Lineage owned less than 50% of Oncocyte outstanding common stock, was included in Lineage's California combined tax return. For periods beginning on February 17, 2017 and thereafter, Oncocyte filed or will file a standalone California income tax return. The provision for state income taxes has been determined as if Oncocyte had filed separate tax returns for the periods presented. Accordingly, the effective tax rate of Oncocyte in future years could vary from its historical effective tax rates depending on the future legal structure of Oncocyte and related tax elections. The historical deferred tax assets, including the operating losses and credit carryforwards generated by Oncocyte, will remain with Oncocyte. Oncocyte accounts for income taxes in accordance with ASC 740, *Income Taxes*, which prescribes the use of the asset and liability method, whereby deferred tax asset or liability account balances are calculated at the balance sheet date using current tax laws and rates in effect. Valuation allowances are established when necessary to reduce deferred tax assets when it is more likely than not that a portion or all of the deferred tax assets will not be realized. Oncocyte's judgments regarding future taxable income may change over time due to changes in market conditions, changes in tax laws, tax planning strategies or other factors. If Oncocyte's assumptions and consequently its estimates change in the future, the valuation allowance may be increased or decreased, which may have a material impact on Oncocyte's statements of operations.

The guidance also prescribes a recognition threshold and a measurement attribute for the financial statement recognition and measurement of tax positions taken or expected to be taken in a tax return. For those benefits to be recognized, a tax position must be more-likely-than-not sustainable upon examination by taxing authorities. Oncocyte will recognize accrued interest and penalties related to unrecognized tax benefits as income tax expense. No amounts were accrued for the payment of interest and penalties as of December 31, 2019 and 2018. Oncocyte is not aware of any uncertain tax positions that could result in significant additional payments, accruals, or other material deviation for the years ended December 31, 2019 and 2018. Oncocyte is currently unaware of any tax issues under review.

On December 22, 2017, the United States enacted major federal tax reform legislation, Public Law No. 115-97, commonly referred to as the 2017 Tax Cuts and Jobs Act ("2017 Tax Act"), which enacted a broad range of changes to the Internal Revenue Code. Changes to taxes on corporations impacted by the 2017 Tax Act include, but are not limited to, lowering the U.S. federal tax rates to a 21% flat tax rate, eliminating the corporate alternative minimum tax ("AMT"), imposing additional limitations on the deductibility of interest and net operating losses, allowing any net operating loss ("NOLs") generated in tax years ending after December 31, 2017 to be carried forward indefinitely and generally repealing carrybacks, reducing the maximum deduction for NOL carryforwards arising in tax years beginning after 2017 to a percentage of the taxpayer's taxable income, and allowing for additional expensing of certain capital expenditures. (see Note 9).

Research and development expenses

Research and development expenses include both direct expenses incurred by Oncocyte and indirect overhead costs incurred by Lineage and allocated to Oncocyte under the Shared Facilities Agreement as expenses that benefited or supported Oncocyte's research and development functions. The Shared Facilities Agreement was terminated as of December 31, 2019 (see Note 4). Direct research and development expenses consist primarily of personnel costs and related benefits, including stock-based compensation, consulting fees, and obligations incurred to suppliers. Indirect research and development expenses allocated by Lineage to Oncocyte under the Shared Facilities Agreement (see Note 4), were primarily based on headcount or space occupied, as applicable, and include laboratory supplies, laboratory expenses, rent and utilities, common area maintenance, telecommunications, property taxes and insurance. Research and development costs are expensed as incurred.

General and administrative expenses

General and administrative expenses include both direct expenses incurred by Oncocyte and indirect overhead costs incurred by Lineage and allocated to Oncocyte under the Shared Facilities Agreement as expenses that benefited or supported Oncocyte's general and administrative functions (see Note 4). Direct general and administrative expenses consist primarily of compensation and related benefits, including stock-based compensation, for executive and corporate personnel, and professional and consulting fees. Indirect general and administrative expenses allocated by Lineage to Oncocyte under the Shared Facilities Agreement (see Note 4) were primarily based on headcount or space occupied, as applicable, and include costs for financial reporting and compliance, rent and utilities, common area maintenance, telecommunications, property taxes and insurance.

Sales and marketing expenses

Sales and marketing expenses consist primarily of personnel costs and related benefits, including stock-based compensation, trade show expenses, branding and positioning expenses, and consulting fees. Indirect sales and marketing expenses allocated by Lineage, were primarily based on Oncocyte's headcount or space occupied, as applicable, and include costs for rent and utilities, common area maintenance, telecommunications, property taxes and insurance, incurred by Lineage and allocated to Oncocyte under the Shared Facilities Agreement (see Note 4).

Stock-based compensation

Oncocyte recognizes compensation expense related to employee option grants and restricted stock grants, if any, in accordance with FASB ASC 718, *Compensation – Stock Compensation* ("ASC 718").

All excess tax benefits and tax deficiencies from stock-based compensation awards accounted for under ASC 718 are recognized as income tax benefit or expense, respectively, in the statements of operations. An excess income tax benefit arises when the tax deduction of a share-based award for income tax purposes exceeds the compensation cost recognized for financial reporting purposes and, a tax deficiency arises when the compensation cost exceeds the tax deduction. Because Oncocyte has a full valuation allowance for all periods presented (see Note 9), there was no impact to Oncocyte statements of operations for any excess tax benefits or deficiencies, as any excess benefit or deficiency would be offset by the change in the valuation allowance. Forfeitures are accounted for as they occur.

Oncocyte estimates the fair value of employee stock-based payment awards on the grant-date and recognizes the resulting fair value over the requisite service period. For stock-based awards that vest only upon the attainment of one or more performance goals set by Oncocyte at the time of the grant (sometimes referred to as milestone vesting), compensation cost is recognized if and when Oncocyte determines that it is probable that the performance condition or conditions will be, or have been, achieved. Oncocyte uses the Black-Scholes option pricing model for estimating the fair value of options granted under Oncocyte's equity plans. The fair value of each restricted stock grant, if any, is determined based on the value of the common stock granted or sold. Oncocyte has elected to treat stock-based payment awards with graded vesting schedules and time-based service conditions as a single award and recognizes stock-based compensation on a straight-line basis over the requisite service period.

In June 2018, the FASB issued ASU 2018-07, *Compensation – Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting*, which simplifies the accounting for non-employee share-based payment transactions. The new standard expands the scope of Topic 718 to include share-based payment transactions for acquiring goods and services from non-employees. Oncocyte adopted ASU 2018-07 on January 1, 2019. As Oncocyte does not have a significant number of outstanding and unvested non-employee share-based awards, the application of the new standard did not have a material impact on its financial statements.

The Black-Scholes option pricing model requires Oncocyte to make certain assumptions including the expected option term, the expected volatility, the risk-free interest rate and the dividend yield (see Note 8).

The expected term of employee stock options represents the weighted-average period that the stock options are expected to remain outstanding. Oncocyte estimates the expected term of options granted based on its own experience and, in part, based on upon the "simplified method" provided under *Staff Accounting Bulletin, Topic 14*, or SAB Topic 14, as necessary. For the years ended December 31, 2019 and 2018, Oncocyte estimated the expected volatility using its own stock price volatility to the extent applicable or a combination of its stock price volatility and the stock price volatility of peer companies, for a period equal to the expected term of the options. The risk-free interest rate assumption is based upon observed interest rates on the United States government securities appropriate for the expected term of Oncocyte's stock options. The dividend yield assumption is based on Oncocyte's history and expectation of dividend payouts. Oncocyte has never declared or paid any cash dividends on its common stock, and Oncocyte does not anticipate paying any cash dividends in the foreseeable future.

Net loss per common share

Basic net loss per common share is computed by dividing net loss by the weighted-average number of shares of common stock outstanding for the period. Diluted net loss per share reflects the weighted-average number of shares of common stock outstanding plus the potential effect of dilutive securities or contracts which are exercisable to common stock, such as stock options and warrants (using the treasury stock method) and shares issuable in future periods, except in cases where the effect would be anti-dilutive. Because Oncocyte reported net losses for all periods presented, all potentially dilutive common stock is antidilutive for those periods.

The following common stock equivalents were excluded from the computation of diluted net loss per common share of common stock for the years ended December 31, 2019 and 2018 because including them would have been antidilutive (in thousands):

	Year Ended December 31,	
	2019	**2018**
Stock options	1,589	3,578
Warrants	3,384	4,035

Segments

Oncocyte's executive management team, as a group, represents the entity's chief operating decision makers. To date, Oncocyte's executive management team has viewed Oncocyte's operations as one segment that includes the research and development of diagnostic tests for the detection of cancer. As a result, the financial information disclosed materially represents all of the financial information related to Oncocyte's sole operating segment.

Recently adopted accounting pronouncements

In February 2016, the FASB issued a new standard related to leases to increase transparency and comparability among organizations by requiring the recognition of right-of-use ("ROU") assets and lease liabilities on the balance sheet. Most prominent among the changes in the standard is the recognition of ROU assets and lease liabilities by lessees for those leases classified as operating leases. Under the standard, disclosures are required to meet the objective of enabling users of financial statements to assess the amount, timing, and uncertainty of cash flows arising from leases.

On January 1, 2019, Oncocyte adopted Accounting Standards Update 2016-02, *Leases* (Topic 842, "ASC 842") and its subsequent amendments affecting Oncocyte: (i) ASU 2018-10, *Codification Improvements to Topic 842, Leases,* and (ii) ASU 2018-11, *Leases (Topic 842): Targeted improvements,* using the modified retrospective method. Oncocyte management determines if an arrangement is a lease at inception. Leases are classified as either financing or operating, with classification affecting the pattern of expense recognition in the statements of operations. When determining whether a lease is a finance lease or an operating lease, ASC 842 does not specifically define criteria to determine "major part of remaining economic life of the underlying asset" and "substantially all of the fair value of the underlying asset." For lease classification determination, Oncocyte continues to use (i) 75% or greater to determine whether the lease term is a major part of the remaining economic life of the underlying asset and (ii) 90% or greater to determine whether the present value of the sum of lease payments is substantially of the fair value of the underlying asset. Oncocyte uses either the rate implicit in the lease or its incremental borrowing rate as the discount rate in lease accounting, as applicable.

Upon adoption of ASC 842 and based on the available practical expedients under that standard, Oncocyte did not reassess any expired or existing contracts, reassess the lease classification for any expired or existing leases and reassess initial direct costs for exiting leases. Oncocyte also elected not to capitalize leases that have terms of twelve months or less.

The adoption of ASC 842 did not have a material impact to Oncocyte's financial statements because Oncocyte did not have any significant operating leases at the time of adoption. During the year ended December 31, 2019, Oncocyte entered into various operating leases and an embedded operating lease in accordance with ASC 842 discussed in Notes 5 and 10. Oncocyte's accounting for financing leases (previously referred to as "capital leases") remained substantially unchanged. Financing leases are included in machinery and equipment, and in financing lease liabilities, current and noncurrent, in Oncocyte's balance sheets (see Note 10).

Recently issued accounting pronouncements not yet adopted

The following accounting standard, which is not yet effective, is presently being evaluated by Oncocyte to determine the impact that it might have on its financial statements.

In December 2019, the FASB issued ASU 2019-12, *Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes.* ASU 2019-12 removes the following exceptions: exception to the incremental approach for intraperiod tax allocation; exception to accounting for basis differences when there are ownership changes in foreign investments; and exception to interim period tax accounting for year to date losses that exceed anticipated losses. ASU 2019-12 also improves financial reporting for franchise taxes that are partially based on income; transactions with a government that result in a step up in the tax basis of goodwill; separate financial statements of legal entities that are not subject to tax; and enacted changes in tax laws in interim periods. ASU 2019-12 is effective for fiscal years beginning after December 15, 2020 and interim periods within those fiscal years. Early adoption is permitted. Oncocyte will adopt this standard as of January 1, 2021 and is currently evaluating the disclosure requirements and its effect on the financial statements.

3. Selected Balance Sheet Components

Prepaid expenses and other current assets

As of December 31, 2019 and 2018, prepaid expenses and other current assets were comprised of the following (in thousands):

	2019	2018
Prepaid insurance	$ 80	$ 102
Prepaid vendors, deposits and service agreements	389	-
Other	36	78
Total prepaid expenses and other current assets	$ 505	$ 180

Deposits and other noncurrent assets

As of December 31, 2019 and 2018, deposits and other noncurrent assets were comprised of the following (in thousands):

	2019	2018
Restricted cash and security deposit for the Irvine Lease (Note 10)	$ 1,850	$ -
Long-term prepaid maintenance contracts	268	262
Other	93	-
Total deposits and other noncurrent assets	$ 2,211	$ 262

Accrued expenses and other current liabilities

As of December 31, 2019 and 2018, accrued expenses and other current liabilities were comprised of the following (in thousands):

	2019	2018
Accrued compensation	$ 1,287	$ 1,303
Accrued vendors and other expenses	1,323	806
Accrued expenses and other current liabilities	$ 2,610	$ 2,109

Right-of-use assets, machinery and equipment, net

At December 31, 2019 and 2018, rights-of-use assets, machinery and equipment, net, were comprised of the following (in thousands):

	2019	2018
Machinery and equipment	$ 1,215	$ 1,562
Right-of-use assets for operating leases [(1)]	2,856	-
Accumulated depreciation and amortization	(343)	(948)
Right-of-use assets, machinery and equipment, net	$ 3,728	$ 614

(1) Oncocyte recorded certain right-of-use assets and liabilities in accordance with ASC 842 (see Notes 5 and 10).

Depreciation expense amounted to approximately $344,000 and $438,000 for the years ended December 31, 2019 and 2018, respectively. During the year ended December 31, 2019, Oncocyte wrote off $0.9 million in fully depreciated machinery and equipment with a corresponding adjustment to accumulated depreciation. During the year ended December 31, 2018, Oncocyte entered into financing leases for laboratory equipment totaling $209,000. No financing leases were entered into for the year ended December 31, 2019.

4. Related Party Transactions

Shared Facilities and Service Agreement

On October 8, 2009, Oncocyte and Lineage executed the Shared Facilities Agreement. Beginning on October 1, 2019, Oncocyte ceased using shared services and has hired its own administrative, finance and accounting personnel. Effective December 31, 2019, Oncocyte terminated the Shared Facilities Agreement and is no longer using a portion of Lineage's facilities in Alameda, California. Under the terms of the Shared Facilities Agreement, Lineage permitted Oncocyte to use Lineage's office and laboratory facility and equipment located in Alameda, California. Through September 30, 2019, Lineage provided accounting, billing, bookkeeping, payroll, treasury, payment of accounts payable, and other similar administrative services to Oncocyte and through December 31, 2019, Lineage permitted Oncocyte the use of Lineage's office and laboratory facilities and equipment. In January 2020, Oncocyte moved into its new corporate headquarters in Irvine, California, and continues to operate its laboratories from Brisbane, California (see Notes 10 and 11).

Lineage has charged Oncocyte a Use Fee for services received and usage of facilities, equipment, and supplies. For each billing period, Lineage prorated and allocated costs incurred, as applicable, to Oncocyte. Such costs have included services of Lineage employees, equipment, insurance, lease, professional, software, supplies and utilities. Allocation depends on key cost drivers including actual documented use, square footage of facilities used, time spent, costs incurred by or for Oncocyte, or upon proportionate usage by Lineage and Oncocyte, as reasonably estimated by Lineage (collectively "Use Fees"). Lineage charges Oncocyte a 5% markup on such allocated costs as permitted by the Shared Facilities Agreement.

The Use Fee was determined and invoiced to Oncocyte on a regular basis, generally monthly or quarterly. If the Shared Facilities Agreement terminates prior to the last day of a billing period, the Use Fee will be determined for the number of days in the billing period elapsed prior to the termination of the Shared Facilities Agreement. Each invoice will be payable in full by Oncocyte within 30 days after receipt. Any invoice, or portion thereof, not paid in full when due will bear interest at the rate of 15% per annum until paid.

In addition to the Use Fees, Oncocyte reimbursed Lineage for any out of pocket costs incurred by Lineage for the purchase of office supplies, laboratory supplies, and other goods and materials and services for the account or use of Oncocyte based on invoices documenting such costs. Lineage has no obligation to purchase or acquire any office supplies or other goods and materials or any services for Oncocyte, and if any such supplies, goods, materials or services are obtained for Oncocyte, Lineage may arrange for the suppliers thereof to invoice Oncocyte directly.

The Shared Facilities Agreement was not considered a lease under the provisions of ASC 842 discussed in Note 2, because, among other factors, a significant part of the Shared Facilities Agreement is a contract for services, not a tangible asset, and was cancelable by either party without penalty.

In the aggregate, Lineage charged Use Fees to Oncocyte as follows (in thousands):

	Year Ended December 31,	
	2019	2018
Research and development	$ 696	$ 882
General and administrative	438	375
Sales and marketing	108	310
Total use fees	$ 1,242	$ 1,567

As of December 31, 2018, Oncocyte had $2.1 million outstanding and payable to Lineage and affiliates included in current liabilities on account of Use Fees under the Shared Facilities Agreement. In February 2019, Oncocyte paid the $2.1 million owed to Lineage for prior services provided under the Shared Facilities Agreement. As of December 31, 2019, amounts owed to Lineage under the Shared Facilities Agreement were insignificant.

Financing Transactions

On July 31, 2018, Oncocyte raised approximately $3.3 million in net proceeds, after offering expenses, from the sale of 1,256,118 shares of its common stock and warrants (the "July 2018 Offering"). The shares of common stock and warrants were sold in "Units" at a purchase price of $2.86 per Unit, with each Unit consisting of one share of common stock and one warrant to purchase one share of its common stock ("July 2018 Offering Warrants"). The Units of common stock and warrants were sold in a registered direct offering. Oncocyte's former Chief Executive Officer, the Chief Financial Officer, the Senior Vice President of Research and Development, and certain members of Oncocyte's Board of Directors purchased Units in the July 2018 Offering on the same terms as other investors.

On March 28, 2018, Oncocyte entered into securities purchase agreements with two accredited investors for the private placement of 7,936,508 shares of Oncocyte's common stock for $1.26 per share, for total gross proceeds of $10.0 million before deducting offering expenses, $8.0 million of which was received in March 2018 and $2.0 million in May 2018. The securities purchase agreements contain certain registration rights. The investors are Broadwood Partners, L.P. ("Broadwood") and George Karfunkel, who beneficially own more than 5% of Oncocyte's outstanding common stock. Oncocyte agreed to register the shares sold to the investors for resale under the Securities Act not later than 60 days after the closing of the sale of the shares. Oncocyte also agreed to pay liquidated damages calculated in the manner provided in the securities purchase agreement if Oncocyte did not file the registration statement in a timely manner. Because the registration statement was not filed as required by the securities purchase agreement during the year ended December 31, 2018, Oncocyte accrued $300,000 on account of liquidated damages owed and paid this amount in March 2019. In June 2019, Oncocyte filed a registration statement to register all the shares underlying the securities purchase agreement.

On November 13, 2019, Oncocyte entered into a series of stock purchase agreements in which Oncocyte sold a total of 5,058,824 shares of common stock for approximately $8.6 million in cash in an offering registered under the Securities Act. As part of this offering, Broadwood purchased 1,176,471 shares (see Note 11).

Consulting Services

During the year ended December 31, 2019, Oncocyte incurred consulting fees of $0.4 million to a firm in which Oncocyte's current President and Chief Executive Officer, Ronald Andrews, was a partner. Mr. Andrews resigned from this firm as an active partner effective June 30, 2019, the date prior to commencement of his employment by Oncocyte.

5. Equity Method Investment in Razor Genomics, Inc.

On September 30, 2019, Oncocyte completed the purchase of 1,329,870 shares of Razor Series A Convertible Preferred Stock, par value $0.0001 per share (the "Preferred Stock"), representing 25% of the outstanding equity of Razor on a fully diluted basis, for $10 million in cash (the "Initial Closing") pursuant to a Subscription and Stock Purchase Agreement (the "Purchase Agreement"), dated September 4, 2019, among Oncocyte, Encore Clinical, Inc. ("Encore"), and Razor. Pursuant to the Purchase Agreement, Oncocyte entered into Minority Holder Stock Purchase Agreements of like tenor (the "Minority Purchase Agreements") with the shareholders of Razor other than Encore (the "Minority Shareholders") for the future purchase of the shares of Razor common stock they own. Oncocyte has also entered into certain other agreements with Razor and Encore, including a Sublicense and Distribution Agreement (the "Sublicense Agreement"), a Development Agreement (the "Development Agreement"), and an amendment to a Laboratory Services Agreement (the "Laboratory Agreement") pursuant to which Oncocyte became a party to that agreement.

Purchase Agreement

Under the Purchase Agreement, Oncocyte has the option to acquire the balance of the outstanding shares of Razor common stock from Encore under the Purchase Agreement and from the Minority Shareholders under the Minority Purchase Agreements (the "Option") for an additional $10 million in cash and Oncocyte common stock valued at $5 million in total (the "Additional Purchase Payment"). If the issuance of shares of Oncocyte common stock having a market value of $5 million would require Oncocyte to issue a number of shares that, when combined with any shares issuable under the Development Agreement discussed below, would exceed 19.99% of the issued and outstanding shares of Oncocyte common stock or the outstanding voting power of its shares as of the date of the Purchase Agreement, Oncocyte may deliver a number of shares of common stock that would not exceed that combined 19.99% limit and an amount of cash necessary to bring the combined value of cash and shares to $5 million.

Oncocyte has agreed to exercise the Option if, within a specified time frame, certain milestones are met related to the contracting of clinical trial sites for a clinical trial of DetermaRx™. Even if DetermaRx™ clinical trial milestones are not met within the time frame referenced in the Purchase Agreement and the Minority Purchase Agreements, Oncocyte will have the option, but not the obligation, to purchase the balance of the outstanding Razor common stock from Encore and the Minority Shareholders for the Additional Purchase Payment that would be applicable if the milestones were met. Oncocyte's obligations to purchase the Razor shares from Encore and the Minority Shareholders are subject to the satisfaction of certain conditions customary for a transaction of this kind.

Development Agreement

Under the Development Agreement, Razor reserved as a "Clinical Trial Expense Reserve" $4 million of the proceeds it received at the Initial Closing from the sale of the Preferred Stock to Oncocyte, to fund Razor's share of costs incurred in connection with a clinical trial of DetermaRx™ for purposes of promoting commercialization ("Clinical Trial").

Oncocyte and Encore will each appoint two representatives to a joint steering committee ("Steering Committee"), which will be formed under the terms of the Development Agreement to oversee the Clinical Trial. Acting by majority vote of the appointed representatives, the Steering Committee will make all design, execution, and termination decisions related to the Clinical Trial, but any deadlocked decisions other than approval of the Clinical Trial budgets, will be resolved by a member designated by Encore. The Steering Committee will agree on a total budget and an initial annual budget for the Clinical Trial. The annual budget will be reviewed and may be revised annually by a majority vote of the Steering Committee. Oncocyte will be responsible for all expenses for the Clinical Trial that exceed the Clinical Trial Expense Reserve up to the total budget amount approved by the Steering Committee, which is expected to cover multiple years and is estimated to be up to $12 million for Oncocyte's portion.

The Development Agreement provides for certain payments by Oncocyte to Encore if certain product reimbursement, Clinical Trial, and financing milestones are attained. Oncocyte has paid Encore $1 million in cash as a milestone payment for the receipt of a preliminary positive coverage decision from the Centers for Medicare and Medicaid Services Molecular Diagnostic Services Program ("CSM/MolDx") for DetermaRx™ (the "Preliminary Coverage Milestone Payment"). In the event Razor receives the final positive coverage decision from CMS/MolDx for reimbursement of patient costs of DetermaRx™ within 12 months after the Initial Closing, Oncocyte will pay Encore $4 million ("CMS Final Milestone Payment"). Oncocyte will account for those milestone payments as part of its equity method investment in Razor.

Upon completion of enrollment of the full number of patients for the Clinical Trial, Oncocyte will issue to Encore and the Minority Shareholders shares of Oncocyte common stock with an aggregate market value at the date of issue equal to $3 million ("Clinical Trial Milestone Payment"). If the issuance of shares of our common stock having a market value of $3 million would require us to issue a number of shares that, when combined with any shares we issued under the Purchase Agreement and the Minority Shareholder Purchase Agreements, would exceed 19.99% of the issued and outstanding shares of Oncocyte common stock or the outstanding voting power of its shares as of the date of the Purchase Agreement, Oncocyte may deliver a number of shares of our common stock that would not exceed that combined 19.99% limit and an amount of cash necessary to bring the combined value of cash and shares to $3 million.

If within a specified time frame Encore is substantially responsible for obtaining funding to Oncocyte or Razor for the Clinical Trial from any third-party pharmaceutical company, a portion of such additional funding amount will be paid to Encore, subject to a $3 million cap on the payment to Encore if the funding is provided by a designated pharmaceutical company.

Sublicense Agreement

Under the Sublicense Agreement, Razor granted to Oncocyte an exclusive worldwide sublicense under certain patent rights applicable to DetermaRx™ in the field of use covered by the applicable license held by Razor for purposes of commercialization and development of DetermaRx™ (the "License Agreement').

Oncocyte will make royalty payments to Encore and the Minority Shareholders based on the net cash revenues actually collected from the commercialization of DetermaRx™, less certain related costs including certain payments by Oncocyte to third parties as royalties and revenue share payments owed by Razor to third parties with respect to revenues from the commercialization of DetermaRx™. The initial royalty rate payable to Encore and the Minority Shareholders will be a low double-digit percentage and will decline as certain cumulative net revenue benchmarks are reached, with a single digit royalty rate payable to them as the benchmarks are attained. Royalties will be payable to Encore and the Minority Shareholders on a quarterly basis.

Laboratory Agreement

Under the Laboratory Agreement, Oncocyte has assumed Razor's Laboratory Agreement payment obligations of $450,000 per year (see Note 10). The Laboratory Agreement gives Oncocyte the right to use Razor's CLIA laboratory in Brisbane, California. Oncocyte pays Encore a quarterly fee for services related to operating and maintaining the CLIA laboratory, including certain staffing. The Laboratory Agreement will expire on September 29, 2021, but Oncocyte may extend the term for additional one-year periods, or Oncocyte may terminate the agreement at its option after it completes the purchase of the shares of Razor common stock from Razor stockholders pursuant to the Purchase Agreement and Minority Purchase Agreements. Oncocyte also has the right to terminate the Laboratory Agreement if there is an event or occurrence that adversely affects, in any material respect, DetermaRx™ or its prospects or its ability to be commercialized, and it remains continuing and uncured

Accounting for the Razor Investment

The Razor investment is being accounted for under the equity method of accounting under ASC 323 because Oncocyte exercises significant influence over, but does not control, the Razor entity. Oncocyte does not control the Razor entity because, among other factors, Oncocyte is entitled to designate one person to serve on a three-member board of directors of Razor, with the other two members designated by Encore, and any deadlocked decisions by the Steering Committee, other than with respect to the Clinical Trial budget, will be resolved by a member designated by Encore.

The Razor Preferred Stock is considered to be in-substance common stock for purposes of the ASC 323 equity method investment in Razor. The equity method investment in Razor is considered an asset, rather than a business, because, among other factors, Razor has no workforce, no commercial product, no revenues, no distribution system and no facilities. Substantially all of the fair value of Razor's assets at the Initial Closing was concentrated in Razor's intangible asset, DetermaRx™, thus satisfying the requirements of the screen test in accordance with Accounting Standards Update ("ASU") 2017-01*, Business combinations (Topic 805): Clarifying the Definition of a Business*. The aggregate payments of $11.245 million, including $10 million for the Razor Preferred Stock, the $1 million Preliminary Coverage Milestone Payment, and $0.245 million in transaction expenses, made by Oncocyte will be amortized over a 10-year useful life of DetermaRx™ and will be reflected in Oncocyte's pro rata earnings and losses of the equity method investment in Razor. Under ASC 323, contingent consideration arrangements, including the CMS Final Milestone Payment, the Clinical Trial Milestone Payment, and the Additional Purchase Payment discussed above, are recorded only if the consideration is both probable and estimable in accordance with ASC 450, *Contingencies*. As of December 31, 2019, and through the date of this Report, none of the contingent consideration payments were recorded as no amounts were probable.

Summarized financial data for Razor

For the period from September 30, 2019 through December 31, 2019, the initial period during which Razor was an equity method investment of Oncocyte, Razor did not engage in significant operations, accordingly, Razor's standalone results of operations were immaterial. The following table summarizes Razor's standalone selected balance sheet information as of December 31, 2019 (in thousands):

Condensed Balance Sheet information [(1)]	2019
Current assets	$ 4,000
Noncurrent assets	-
	$ 4,000
Current liabilities	$ -
Noncurrent liabilities	-
Stockholders' equity	4,000
	$ 4,000

(1) The condensed balance sheet information of Razor as of December 31, 2019 is provided for informational purposes only. Razor is not included in Oncocyte's balance sheet as of December 31, 2019 because Razor is accounted for under the equity method of accounting and not consolidated with Oncocyte's financial statements for any period presented.

6. Loan Payable to Silicon Valley Bank

On February 21, 2017, Oncocyte entered into a Loan and Security Agreement (the "Loan Agreement") with Silicon Valley Bank (the "Bank") pursuant to which Oncocyte borrowed $2.0 million on March 23, 2017. Payments of interest only on the principal balance were due monthly from the draw date through October 31, 2017, and, beginning on November 1, 2017, monthly payments of principal of approximately $67,000 plus interest are due and payable.

The outstanding principal amount plus accrued interest will be due and payable to the Bank at maturity on April 1, 2020, which was paid off on account of the loan refinancing completed in October 2019, including a payment of the $116,000 final payment fee as further discussed below.

Oncocyte may prepay in full the outstanding principal balance at any time, subject to a prepayment fee equal to 1.0% of the outstanding principal balance if prepaid after February 21, 2019, which was waived by the Bank due to the refinancing in October 2019.

The outstanding principal amount of the loan, with interest accrued, the final payment fee, and the prepayment fee may become due and payable prior to the applicable maturity date if an "Event of Default" as defined in the Loan Agreement occurs and is not cured within any applicable cure period. Upon the occurrence and during the continuance of an Event of Default, all obligations due to the Bank will bear interest at a rate per annum which is 5% above the then applicable interest rate. An Event of Default includes, among other events, failure to pay interest and principal when due, material adverse changes, which include a material adverse change in Oncocyte's business, operations, or condition (financial or otherwise), failure to provide the bank with timely financial statements and

copies of filings with the Securities and Exchange Commission (the "SEC"), as required, legal judgments or pending or threatened legal actions of $50,000 or more, insolvency, and delisting from the NYSE American. Oncocyte's obligations under the Loan Agreement are collateralized by substantially all of its assets other than intellectual property such as patents and trade secrets that Oncocyte owns. Accordingly, if an Event of Default were to occur and not be cured, the Bank could foreclose on its security interest in the collateral.

Bank Warrants

In 2017, in connection with the Loan Agreement, Oncocyte issued common stock purchase warrants to the Bank (the "Bank Warrants") entitling the Bank to purchase shares of Oncocyte common stock in tranches related to the loan tranches under the Loan Agreement. In conjunction with the availability of the loan, the Bank was issued warrants to purchase 8,247 shares of Oncocyte common stock at an exercise price of $4.85 per share, through February 21, 2027. On March 23, 2017, the Bank was issued warrants to purchase an additional 7,321 shares at an exercise price of $5.46 per share, through March 23, 2027. The Bank may elect to exercise the Bank Warrants on a "cashless exercise" basis and receive a number of shares determined by multiplying the number of shares for which the applicable tranche is being exercised by (A) the excess of the fair market value of the common stock over the applicable exercise price, divided by (B) the fair market value of the common stock. The fair market value of the common stock will be the last closing or sale price on a national securities exchange, interdealer quotation system, or over-the-counter market.

The Bank Warrants are classified as equity since, among other factors, they are not mandatorily redeemable, cannot be settled in cash or other assets and require settlement by issuing a fixed number of shares of common stock of Oncocyte. Oncocyte determined the fair value of the Bank Warrants using the Black-Scholes option pricing model to be approximately $62,000, which was recorded as a deferred financing cost against the loan payable balance. Aggregate deferred financing costs of $196,000, recorded against the loan payable balance, are amortized to interest expense over the term of the loan using the effective interest method. As of December 31, 2019, there were no unamortized deferred financing costs on account of the debt extinguishment in October related to the refinancing of the loan discussed below.

Amended Loan Agreement

On October 17, 2019, Oncocyte entered into a First Amendment to Loan and Security Agreement (the "Amended Loan Agreement") with the Bank pursuant to which Oncocyte obtained a new $3 million secured credit facility ("Tranche 1"), a portion of which was used to repay the remaining balance of approximately $400,000 on outstanding loans from the Bank, plus a final payment of $116,000, under the February 21, 2017 Loan Agreement with the Bank discussed above. The credit line under the Amended Loan Agreement may be increased by an additional $2 million ("Tranche 2") if Oncocyte obtains at least $20 million of additional equity capital, as was the case with the original Loan Agreement, and a positive final coverage determination is received from the Centers for Medicate and Medicaid Services for DetermaRx™ at a specified minimum price point per test (the "Tranche 2 Milestone"), and Oncocyte is not in default under the Amended Loan Agreement.

Payments of interest only on the principal balance will be due monthly from the draw date through March 31, 2020 followed by 24 monthly payments of principal and interest, provided, however, that if the Tranche 2 Milestone is achieved the interest only payment period will be extended through September 30, 2020 followed by 18 equal monthly payments of principal plus interest. The outstanding principal balance of the loan will bear interest at a stated floating annual interest equal to the greater of (a) the prime rate or (b) 5% per annum. As of December 31, 2019, the latest published prime rate was 4.75% per annum.

The principal amount of all loans plus accrued interest will be due and payable to the Bank at maturity on March 31, 2022. At maturity, Oncocyte will also pay the Bank an additional final payment fee of $200,000, which was recorded as a deferred financing charge in October 2019 and is being amortized to interest expense over the term of the loan using the effective interest method. As of December 31, 2019, the unamortized deferred financing cost was $170,000.

Oncocyte may prepay in full the outstanding principal balance at any time, subject to a prepayment fee equal to 3.0% of the outstanding principal balance if prepaid within one year after October 17, 2019, 2.0% of the outstanding principal balance if prepaid more than one year but less than two years after October 17, 2019, or 1.0% of the outstanding principal balance if prepaid two years or more after October 17, 2019. Any amounts borrowed and repaid may not be reborrowed.

The outstanding principal amount of the loan, with interest accrued, the final payment fee, and the prepayment fee may become due and payable prior to the applicable maturity date if an "Event of Default" as defined in the Amended Loan Agreement, substantially unchanged as discussed above. Oncocyte was in compliance with the Amended Loan Agreement as of the filing date of this Report.

On October 17, 2019, in conjunction with Tranche 1 becoming available under the Amended Loan Agreement, Oncocyte issued a common stock purchase warrant to the Bank (the "Bank Warrant") entitling the Bank to purchase 98,574 shares of Oncocyte common stock at the initial Warrant Price of $1.69 per share through October 17, 2029. The number of shares of common stock issuable upon the exercise of the Bank Warrant will increase on the date of each draw, if any, on Tranche 2. The number of additional shares of common stock issuable upon the exercise of the Bank Warrant will be equal to 0.02% of Oncocyte's fully diluted equity outstanding for each $1 million draw under Tranche 2. The Warrant Price for Tranche 2 warrant shares will be determined upon each draw of Tranche 2 funds and will be closing price of Oncocyte common stock on the NYSE American or other applicable market on the date immediately before the applicable date on which Oncocyte borrows funds under Tranche 2. The Bank may elect to exercise the Bank Warrant on a "cashless exercise" basis and receive a number of shares determined by multiplying the number of shares for which the Bank Warrant is being exercised by (A) the excess of the fair market value of the common stock over the applicable Warrant Price, divided by (B) the fair market value of the common stock. The fair market value of the common stock will be last closing or sale price on a national securities exchange, interdealer quotation system, or over-the-counter market.

The Amended Loan Agreement was considered an extinguishment of the Loan Agreement in accordance with ASC 470-50, *Debt Modifications and Extinguishment*, and accordingly, Oncocyte recorded a loss on extinguishment of debt of $153,000, which includes the Black-Scholes value of the Bank Warrant, during the year ended December 31, 2019.

Future Cash Payments of Loan Payable

As of December 31, 2019, principal and interest payments due on the loan payable in each of the next three years are as follows (in thousands):

Year Ending December 31,	Loan Payments
2020	$ 1,258
2021	1,561
2022	578
Total payments of principal and interest	3,397
Less: amounts representing interest	(197)
Total payments of principal before deferred financing costs	3,200
Less: deferred financing costs	(170)
Total loan payable, net of deferred financing costs	$ 3,030

7. Shareholders' Equity

Preferred Stock

Oncocyte is authorized to issue up to 5,000,000 shares of no par value preferred stock. As of December 31, 2019 and 2018, no preferred shares were issued or outstanding.

Common Stock

Oncocyte has up to 85,000,000 shares of no par value common stock authorized. The holders of Oncocyte's common stock are entitled to receive ratably dividends when, as, and if declared by the Board of Directors out of funds legally available. Upon liquidation, dissolution, or winding up, the holders of Oncocyte common stock are entitled to receive ratably the net assets available after the payment of all debts and other liabilities and subject to the prior rights of Oncocyte outstanding preferred shares, if any.

The holders of common stock are entitled to one vote for each share held on all matters submitted to a vote of Oncocyte stockholders. The holders of common stock have no preemptive, subscription, or redemption rights. The outstanding shares of common stock are fully paid and non-assessable.

As of December 31, 2019 and 2018, Oncocyte had 57,031,654 and 40,664,496 issued and outstanding shares of common stock, respectively (see Note 11). See Note 4 with respect to certain financing transactions pursuant to which Oncocyte sold shares of common stock and common stock purchase warrants during the years ended December 31, 2019 and 2018.

Common Stock Purchase Warrants

As of December 31, 2019, Oncocyte had an aggregate of 3,383,913 common stock purchase warrants issued and outstanding with exercise prices ranging from $1.69 to $5.50 per warrant. The warrants will expire on various dates through March 23, 2027. Certain warrants have "cashless exercise" provisions meaning that the value of a portion of warrant shares may be used to pay the exercise price rather than payment in cash, which may be exercised under any circumstances in the case of the Bank Warrants or, in the case of certain other warrants, only if a registration statement for the warrants and underlying shares of common stock is not effective under the Securities Act or a prospectus in the registration statement is not available for the issuance of shares upon the exercise of the warrants.

Oncocyte has considered the guidance in ASC 815-40, *Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock,* which states that contracts that require or may require the issuer to settle the contract for cash are liabilities recorded at fair value, irrespective of the likelihood of the transaction occurring that triggers the net cash settlement feature. This liability classification guidance also applies to financial instruments that may require cash or other form of settlement for transactions outside of the company's control and, in which the form of consideration to the warrant holder may not be the same as to all other shareholders in connection with the transaction. However, if a transaction is not within the company's control but the holder of the financial instrument can solely receive the same type or form of consideration as is being offered to all the shareholders in the transaction, then equity classification of the financial instrument is not precluded, if all other applicable equity classification criteria are met. Based on the above guidance and, among other factors, the fact that the warrants cannot be cash settled under any circumstance but require share settlement, all of the outstanding warrants meet the equity classification criteria and have been classified as equity.

Stock Option Exercises

During the years ended December 31, 2019 and 2018, 575,000 and 20,312 shares of common stock were issued upon the exercise of stock options, from which Oncocyte received $943,000 and $58,000 in cash proceeds, respectively.

8. Stock-Based Compensation

Stock Option Plan

Oncocyte had a 2010 Stock Option Plan (the "2010 Plan") under which 5,200,000 shares of common stock were authorized for the grant of stock options or the sale of restricted stock.

On August 27, 2018, Oncocyte shareholders approved a new Equity Incentive Plan (the "2018 Incentive Plan") to replace the 2010 Plan. In adopting the 2018 Incentive Plan, Oncocyte terminated the 2010 Plan and will not grant any additional stock options or sell any stock under restricted stock purchase agreements under the 2010 Plan; however, stock options issued under the 2010 Plan will continue in effect in accordance with their terms and the terms of the 2010 Plan until the exercise or expiration of the individual options.

The 2018 Incentive Plan reserved 11,000,000 shares of common stock for the grant of stock options or the sale of restricted stock ("Restricted Stock") or for the settlement of hypothetical units issued with reference to common stock ("Restricted Stock Units"). Oncocyte may also grant stock appreciation rights ("SARs") under the 2018 Incentive Plan. The 2018 Incentive Plan also permits Oncocyte to issue such other securities as its Board of Directors (the "Board") or the Compensation Committee (the "Committee") administering the 2018 Incentive Plan may determine. Awards of stock options, Restricted Stock, SARs, and Restricted Stock Units ("Awards") may be granted under the 2018 Incentive Plan to Oncocyte employees, directors, and consultants.

Awards may vest and thereby become exercisable or have restrictions on forfeiture lapse on the date of grant or in periodic installments or upon the attainment of performance goals, or upon the occurrence of specified events. Awards may not vest, in whole or in part, earlier than one year from the date of grant. Vesting of an Award after the date of grant may be accelerated only in the limited circumstances specified in the 2018 Incentive Plan. In the case of the acceleration of vesting of any performance-based Award, acceleration of vesting shall be limited to actual performance achieved, pro rata achievement of the performance goal(s) on the basis for the elapsed portion of the performance period, or a combination of actual and pro rata achievement of performance goals.

No person shall be granted, during any one-year period, options to purchase, or SARs with respect to, more than 1,000,000 shares in the aggregate, or any Awards of Restricted Stock or Restricted Stock Units with respect to more than 500,000 shares in the aggregate. If an Award is to be settled in cash, the number of shares on which the Award is based shall not count toward the individual share limit.

No Awards may be granted under the 2018 Incentive Plan more than ten years after the date upon which the 2018 Incentive Plan was adopted by the Board, and no options or SARS granted under the 2018 Incentive Plan may be exercised after the expiration of ten years from the date of grant.

Stock Options

Options granted under the 2018 Incentive Plan may be either "incentive stock options" within the meaning of Section 422(b) of the Internal Revenue Code of 1986, as amended (the "Code"), or "non-qualified" stock options that do not qualify incentive stock options. Incentive stock options may be granted only to Oncocyte employees and employees of subsidiaries. The exercise price of stock options granted under the 2018 Incentive Plan must be equal to the fair market of Oncocyte common stock on the date the option is granted. In the case of an optionee who, at the time of grant, owns more than 10% of the combined voting power of all classes of Oncocyte stock, the exercise price of any incentive stock option must be at least 110% of the fair market value of the common stock on the grant date, and the term of the option may be no longer than five years. The aggregate fair market value of common stock (determined as of the grant date of the option) with respect to which incentive stock options become exercisable for the first time by an optionee in any calendar year may not exceed $100,000.

The exercise price of an option may be payable in cash or in common stock having a fair market value equal to the exercise price, or in a combination of cash and common stock, or other legal consideration for the issuance of stock as the Board or Committee may approve.

Generally, options will be exercisable only while the optionee remains an employee, director or consultant, or during a specific period thereafter, but in the case of the termination of an employee, director, or consultant's services due to death or disability, the period for exercising a vested option shall be extended to the earlier of 12 months after termination or the expiration date of the option.

Restricted Stock and Restricted Stock Units

In lieu of granting options, Oncocyte may enter into purchase agreements with employees under which they may purchase or otherwise acquire Restricted Stock or Restricted Stock Units subject to such vesting, transfer, and repurchase terms, and other restrictions. The price at which Restricted Stock may be issued or sold will be not less than 100% of fair market value. Employees or consultants, but not executive officers or directors, who purchase Restricted Stock may be permitted to pay for their shares by delivering a promissory note or an installment payment agreement that may be secured by a pledge of their Restricted Stock. Restricted Stock may also be issued for services actually performed by the recipient prior to the issuance of the Restricted Stock. Unvested Restricted Stock for which Oncocyte has not received payment may be forfeited, or Oncocyte may have the right to repurchase unvested shares upon the occurrence of specified events, such as termination of employment.

Subject to the restrictions set with respect to the particular Award, a recipient of Restricted Stock generally shall have the rights and privileges of a shareholder, including the right to vote the Restricted Stock and the right to receive dividends; provided that, any cash dividends and stock dividends with respect to the Restricted Stock shall be withheld for the recipient's account, and interest may be credited on the amount of the cash dividends withheld. The cash dividends or stock dividends so withheld and attributable to any particular share of Restricted Stock (and earnings thereon, if applicable) shall be distributed to the recipient in cash or, at the discretion of the Board or Committee, in shares of common stock having a fair market value equal to the amount of such dividends, if applicable, upon the release of restrictions on the Restricted Stock and, if the Restricted Stock is forfeited, the recipient shall have no right to the dividends.

The terms and conditions of a grant of Restricted Stock Units shall be determined by the Board or Committee. No shares of common stock shall be issued at the time a Restricted Stock Unit is granted. A recipient of Restricted Stock Units shall have no voting rights with respect to the Restricted Stock Units. Upon the expiration of the restrictions applicable to a Restricted Stock Unit, Oncocyte will either issue to the recipient, without charge, one share of common stock per Restricted Stock Unit or cash in an amount equal to the fair market value of one share of common stock.

At the discretion of the Board or Committee, each Restricted Stock Unit (representing one share of common stock) may be credited with cash and stock dividends paid in respect of one share ("Dividend Equivalents"). Dividend Equivalents shall be withheld for the recipient's account, and interest may be credited on the amount of cash Dividend Equivalents withheld. Dividend Equivalents credited to a recipient's account and attributable to any particular Restricted Stock Unit (and earnings thereon, if applicable) shall be distributed in cash or in shares of common stock having a fair market value equal to the amount of the Dividend Equivalents and earnings, if applicable, upon settlement of the Restricted Stock Unit. If a Restricted Stock Unit is forfeited, the recipient shall have no right to the related Dividend Equivalents.

Equity awards activity

A summary of Oncocyte equity awards activity under the 2010 Plan and related information follows (in thousands except weighted average exercise price):

Options	Shares Available for Grant	Number of Options Outstanding	Weighted Average Exercise Price
Balance at January 1, 2018	1,384	3,390	$ 3.25
Options granted	(1,446)	1,446	2.39
Options exercised	-	(20)	2.84
Options forfeited, cancelled or expired	138	(645)	3.96
Termination of the 2010 Plan	(76)	-	-
Balance at December 31, 2018	-	4,171	$ 2.92
Options exercised	-	(575)	1.64
Options forfeited, cancelled or expired	-	(405)	3.43
Balance at December 31, 2019	-	3,191	$ 3.08
Exercisable at December 31, 2019		2,206	$ 3.20

In 2018, under the 2010 Plan, Oncocyte granted certain stock options with exercise prices ranging from $2.30 per share to $3.15 per share, that will vest in increments upon the attainment of specified performance conditions related to the development of DetermaDx™ and obtaining Medicare reimbursement coverage for that test ("Performance-Based Options"). During the year ended December 31, 2019, certain performance conditions required for vesting were met, and, accordingly, 47,500 shares vested and $101,000 of stock-based compensation expense was recorded with regard to the Performance-Based Options. As of December 31, 2019, there were 802,000 Performance-Based Options outstanding.

At December 31, 2019 and 2018, Oncocyte had approximately $6.5 million and $2.7 million, respectively, of total unrecognized compensation expense related to the 2010 Plan and 2018 Incentive Plan that will be recognized over a weighted-average period of approximately 2.6 and 3.3 years, respectively.

A summary of 2018 Incentive Plan activity and related information follows (in thousands except weighted average exercise price):

Options	Shares Available for Grant	Number of Options and RSUs Outstanding	Weighted Average Exercise Price
Balance at January 1, 2018	-	-	$ -
Approval of 2018 Incentive Plan	5,000	-	-
Options granted	(411)	411	2.21
Options exercised	-	-	-
Options forfeited, cancelled or expired	50	(50)	1.95
Balance at December 31, 2018	4,639	361	2.21
Option pool increase	6,000	-	-
Options granted	(4,089)	4,089	2.87
RSUs granted	(170)	85	n/a
Options exercised	-	-	-
Options forfeited and cancelled	362	(362)	3.42
Balance at December 31, 2019	6,742	4,173	$ 2.77
Exercisable at December 31, 2019		396	$ 2.70

Additional information regarding Oncocyte's outstanding stock options and vested and exercisable stock options is summarized below:

	As of December 31, 2019 Options Outstanding		
Exercise Prices	Number of Shares (in thousands)	Weighted Average Remaining Contractual Life (Years)	Weighted Average Exercise Price
$1.34 - $1.98	801	8.36	$ 1.82
$2.01 - $2.80	3,647	8.42	2.32
$3.06 - $5.95	2,831	8.03	3.98
$1.34 - $5.95	7,279	8.26	$ 2.91

Oncocyte recorded stock-based compensation expense in the following categories on the accompanying statements of operations for the years ended December 31, 2019 and 2018 (in thousands):

	2019	2018
Research and development	$ 612	$ 50
General and administrative	2,272	1,154
Sales and marketing	111	275
Total stock-based compensation expense	$ 2,995	$ 1,479

The weighted-average estimated fair value of stock options with service-conditions granted during the years ended December 31, 2019 and 2018 was $2.01 and $1.46 per share, respectively, using the Black-Scholes option pricing model with the following weighted-average assumptions:

	2019	2018
Expected life (in years)	6.03	5.65
Risk-free interest rates	2.05%	2.85%
Volatility	79.02%	75.51%
Dividend yield	-%	-%

The determination of stock-based compensation is inherently uncertain and subjective and involves the application of valuation models and assumptions requiring the use of judgment. If Oncocyte had made different assumptions, its stock-based compensation expense, and net loss for years ended December 31, 2019 and 2018, may have been significantly different.

Oncocyte does not recognize deferred income taxes for incentive stock option compensation expense and records a tax deduction only when a disqualified disposition has occurred.

9. Income Taxes

No provision for income taxes was recorded for the years ended December 31, 2018 and December 31, 2019. Oncocyte has filed standalone U.S. federal income tax returns since its inception. For California purposes, Oncocyte's activity for 2016 was included in Lineage's California Combined tax return. As a result of Oncocyte's deconsolidation from Lineage on February 17, 2017, (see Note 1), Oncocyte has filed a separate California return for tax year 2017 and will continue to do so for subsequent years. The provision for state income taxes has been determined as if Oncocyte had filed separate tax returns for the periods presented. Accordingly, the effective tax rate of Oncocyte in 2019 and future years could vary from its historical effective tax rates depending on the future legal structure of Oncocyte and related tax elections. The deferred tax assets, including the operating loss and credit carryforwards, generated by Oncocyte, will remain with Oncocyte.

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes.

The primary components of the deferred tax assets and liabilities at December 31, 2019 and 2018 were as follows (in thousands):

	2019	2018
Deferred tax assets/(liabilities):		
Net operating loss carryforwards and capital loss carryforwards	$ 19,391	$ 15,204
Research and development credit carryforwards	2,190	2,444
Marketable equity securities	394	393
Patents and fixed assets	949	523
Stock-based and other compensation	1,166	1,326
Equity method investment in Razor	81	-
Right-of-use liability	764	-
Right-of-use asset	(749)	-
Total	24,186	19,890
Valuation allowance	(24,186)	(19,890)
Net deferred tax asset	$ -	$ -

Due to losses incurred for all periods presented, Oncocyte did not record any provision or benefit for income taxes.

Income taxes differed from the amounts computed by applying the applicable U.S. federal income tax rates indicated to pretax losses from operations as a result of the following:

	2019	2018
Computed tax benefit at federal statutory rate	21%	21%
Permanent differences	(2)%	-%
State tax benefit	2%	10%
Research and development credits	(2)%	1%
Other	-%	(1)%
Adjust basis for available-for-sale-securities	-%	-%
Change in valuation allowance	(19)%	(31)%
	-%	-%

As of December 31, 2019, Oncocyte had net operating loss carryforwards of approximately $79.7 million for U.S. federal income tax purposes and $52.1 million for state income tax purposes. Federal net operating losses generated on or prior to December 31, 2017 expire in varying amounts between 2030 and 2037, while federal net operating losses generated after December 31, 2017 carryforward indefinitely. The state net operating losses expire in varying amounts between 2029 and 2039. Oncocyte also has capital loss carryforwards for federal and state income tax purposes of $0.7 million each which expire between 2020 and 2023.

As of December 31, 2019, Oncocyte has research and development credit carryforwards for federal and state purposes of $1.4 million and $1.5 million, respectively. The federal credits will expire between 2030 and 2039, while the state credits have no expiration.

A valuation allowance is provided when it is more likely than not that some portion of the deferred tax assets will not be realized. Oncocyte established a full valuation allowance for all periods presented due to the uncertainty of realizing future tax benefits from its net operating loss carryforwards and other deferred tax assets. The change in the valuation allowance was $4.3 million and $4.8 million for the years ended December 31, 2019 and 2018, respectively.

Oncocyte has uncertain tax benefits ("UTBs") totaling $2.9 million as of December 31, 2019 which were netted against deferred tax assets subject to valuation allowance as shown below. Oncocyte did not have any material UTBs as of December 31, 2018. The UTBs had no effect on the effective tax rate and there would be no cash tax impact for any period presented. Oncocyte recognizes interest and penalties related to UTBs, when they occur, as a component of income tax expense. There were no interest or penalties recognized for the years ended December 31, 2018 and 2019. Oncocyte does not expect its UTBs to change significantly over the next twelve months.

A reconciliation of the beginning and ending unrecognized tax benefit amount is as follows (in thousands):

	December 31,	
	2019	**2018**
	(in thousands)	
Balance at the beginning of the year	$ -	$ -
Additions based on tax positions related to current year	1,301	-
Adjustments based on tax positions related to prior years	1,587	-
Balance at end of year	$ 2,888	$ -

Other Income Tax Matters

Internal Revenue Code Section 382 places a limitation ("Section 382 Limitation") on the amount of taxable income that can be offset by NOL carryforwards after a change in control (generally greater than 50% change in ownership within a three-year period) of a loss corporation. California has similar rules. Generally, after a change in control, a loss corporation cannot deduct NOL carryforwards in excess of the Section 382 Limitation. Due to these "change in ownership" provisions, utilization of the NOL and tax credit carryforwards may be subject to an annual limitation regarding their utilization against taxable income in future periods. To date, Oncocyte has not experienced such an ownership change. Subsequent ownership changes may affect the limitation in future years.

In general, Oncocyte is no longer subject to tax examination by the Internal Revenue Service or state taxing authorities for years before 2015. Although the federal and state statutes are closed for purposes of assessing additional income tax in those prior years, the taxing authorities may still make adjustments to the NOL and credit carryforwards used in open years. Therefore, the tax statutes should be considered open as it relates to the NOL and credit carryforwards used in open years. For tax years that remain open to examination, potential examinations may include questioning of the timing and amount of deductions, the nexus of income among various tax jurisdictions and compliance with the Internal Revenue Code or state tax laws. Oncocyte's management does not expect that the total amount of unrecognized tax benefits will materially change over the next twelve months.

Oncocyte's practice is to recognize interest and penalties related to income tax matters in tax expense. As of December 31, 2019 and 2018, Oncocyte has no accrued interest and penalties.

10. Commitments and Contingencies

Oncocyte has certain commitments other than those discussed in Note 5.

Office Lease Agreement

On December 23, 2019, Oncocyte entered into an Office Lease Agreement (the "Irvine Lease") of a building containing approximately 26,800 square feet of rentable space located at 15 Cushing in Irvine California (the "Premises") that will serve as Oncocyte's new principal executive and administrative offices and laboratory facility. Oncocyte completed the relocation of its offices to the Premises in January 2020 and will construct a clinical diagnostic laboratory and a research laboratory at the Premises and then relocate its laboratories to the Premises later in 2020.

The Irvine Lease has an initial term of 89 calendar months, plus any fraction of the calendar month in which the "Commencement Date" occurs (the "Term"). The Commencement Date will occur 150 days after December 24, 2019, the date on which Oncocyte took possession of the Premises, which is expected to be on June 1, 2020. Oncocyte has an option to extend the term of the Lease for a period of five years (the "Extended Term").

Oncocyte will pay base monthly rent in the amount of $61,640 during the first 12 months of the Term. Base monthly rent will increase annually, over the base monthly rent then in effect, by 3.5%. If the Term or Extended Term commences or expires on a day other than the first day of a calendar month, the base monthly rent, and expenses and taxes payable by Oncocyte under the Lease as described below, will be prorated for the partial month. Oncocyte will not be obligated to pay base monthly rent during the period of its occupancy of the Premises prior to the Commencement Date and will be entitled to an abatement of 50% of the base monthly rent during the first ten calendar months of the Term. If the Lease is terminated based on the occurrence of an "event of default," Oncocyte will be obligated to pay the abated rent to the lessor.

If Oncocyte exercises its option to extend the Term, the initial base monthly rent during the Extended Term will be the greater of the base monthly rent in effect during the last year of the Term or the prevailing market rate. The prevailing market rate will be determined based on annual rental rates per square foot for comparable space in the area where the Premises are located. If Oncocyte does not agree with the prevailing market rate proposed by the lessor, the rate may be determined through an appraisal process. The base monthly rent during the Extended Term shall be subject to the same annual rent adjustment as applicable for base monthly rent during the Term.

In addition to base monthly rent, Oncocyte will pay in monthly installments (a) all costs and expenses, other than certain excluded expenses, incurred by the lessor in each calendar year in connection with operating, maintaining, repairing (including replacements if repairs are not feasible or would not be effective) and managing the Premises and the building in which the Premises are located ("Expenses"), and (b) all real estate taxes and assessments on the Premises and the building in which the Premises are located, all personal property taxes for property that is owned by Landlord and used in connection with the operation, maintenance and repair of the Premises, and costs and fees incurred in connection with seeking reductions in such tax liabilities ("Taxes"). Subject to certain exceptions, Expenses shall not be increased by more than 4% annually on a cumulative, compounded basis.

Oncocyte is entitled to an abatement of its obligations to pay Expenses and Taxes while constructing improvements to the Premises constituting "Tenant's Work" under the Lease prior to the Commencement Date, except that (a) Oncocyte will be obligated to pay 43.7% of Expenses and Taxes during the period prior to the Commencement Date for its use of the second floor of the Premises, which is already built out as office space, and (b) the abatement will end prior to the Commencement Date if Oncocyte completes its "Tenant's Work" for its laboratory space and opens the ground floor for use.

The lessor has agreed to provide Oncocyte with a "Tenant Improvement Allowance" in the amount of $1,340,000 to pay for the plan, design, permitting, and construction of the improvements constituting Tenant's Work. The lessor shall be entitled to retain 1.5% of the Tenant Improvement Allowance as an administrative fee.

Oncocyte has provided the lessor with a security deposit in the amount of $150,000 and a letter of credit in the amount of $1,700,000. The lessor may apply the security deposit, in whole or in part, for the payment of rent and any other amount that Oncocyte is or becomes obligated to pay under the Irvine Lease but fails to pay when due and beyond any cure period. The lessor may draw on the letter of credit from time to time to pay any amount that is unpaid and due, or if the original issuing bank notifies the lessor that the letter of credit will not be renewed or extended for the period required under the Irvine Lease and Oncocyte fails to timely provide a replacement letter of credit, or an event of default under the Irvine Lease occurs and continues beyond the applicable cure period, or if certain insolvency or bankruptcy or insolvency with respect to Oncocyte occur. Oncocyte is required to restore any portion of the security deposit that is applied by the lessor to payments due under the Lease, and Oncocyte is required to restore the amount available under the letter of credit to the required amount if any portion of the letter of credit is drawn by the lessor. Commencing on the 34th month of the Term, (a) the amount of the letter of credit that Oncocyte is required to maintain shall be reduced on a monthly basis, in equal installments, to amortize the required amount to zero at the end of the Term, and (b) Oncocyte will have the right to cancel the letter of credit at any time if it meets certain market capitalization and balance sheet thresholds; provided, in each case, that Oncocyte is not in then default under the Lease beyond any applicable notice and cure period and the lessor has not determined that an event exists that would lead to an event of default.

To obtain the letter of credit, Oncocyte has provided the issuing bank with a restricted cash deposit that the bank will hold to cover its obligation to pay any draws on the letter of credit by the lessor. The restricted cash may not be used for any other purpose.

The Irvine Lease is an operating lease under ASC 842 included in the tables below.

Adoption and application of ASC 842

The tables below provide the amounts recorded in connection with the adoption of ASC 842 as of, and during, the year ended December 31, 2019, for Oncocyte's operating and financing leases (see Note 2).

Under the Laboratory Agreement discussed in Note 5, Oncocyte assumed all of Razor's Laboratory Agreement payment obligations amounting to $450,000 per year. Although Oncocyte is not a party to any lease agreement with Razor or Encore, under the terms of the Laboratory Agreement, Oncocyte received landlord's consent for the use of the laboratory at Razor's Brisbane, California location (the "Brisbane Facility") under the terms of a sublease to which Encore is the sublessee. The sublease expires on March 31, 2023 (the "Brisbane Lease"). The laboratory fee payments to Encore include both laboratory services and the use of the Brisbane Facility. Under the provisions of the Laboratory Agreement, if Oncocyte terminates the Laboratory Agreement prior to the expiration of the Brisbane Lease, Oncocyte shall assume the costs related to the subletting or early termination of the Brisbane Lease. If the Laboratory Agreement were to be terminated on December 31, 2019, the aggregate payments due to the landlord for early cancellation of the Brisbane Lease would be approximately $450,000 (aggregate payments from December 31, 2019 through March 31, 2023). Oncocyte determined that the Laboratory Agreement contains an embedded operating lease for the Brisbane Facility and Oncocyte allocated the aggregate payments to this lease component for purposes of calculating the net present value of the right-of-use asset and liability as of the inception of the Laboratory Agreement in accordance with ASC 842, as shown in the table below.

Financing lease

As of December 31, 2019, Oncocyte has one financing lease remaining through September 2021 for certain laboratory equipment with aggregate remaining payments of $141,000 shown in the table below.

Operating and Financing leases

The following table presents supplemental cash flow information related to operating and financing leases for the year ended December 31, 2019 (in thousands):

Cash paid for amounts included in the measurement of financing lease liabilities:		
Operating cash flows from financing leases	$	35
Financing cash flows from financing leases		454
Right-of-use assets obtained in exchange for right-of-use lease liabilities:		
Operating leases, including the Irvine Lease	$	2,866

The following table presents supplemental balance sheet information related to operating and financing leases as of December 31, 2019 (in thousands, except lease term and discount rate):

Financing Leases		
Machinery and equipment, gross	$	209
Accumulated depreciation		(93)
Machinery and equipment, net	$	116
Current liabilities	$	71
Noncurrent liabilities		58
Total financing lease liabilities	$	129
Weighted average remaining lease term		
Operating leases		7.3 years
Financing leases		1.8 years
Weighted average discount rate		
Operating leases		11.2%
Financing leases		9.6%

The following table presents future minimum lease commitments as of December 31, 2019 (in thousands):

	Operating Leases	Financing Leases
Year Ending December 31,		
2020	$ 394	$ 81
2021	879	60
2022	951	-
2023	850	-
2024	839	
Thereafter	2,463	-
Total minimum lease payments	6,376	141
Less: amounts representing interest	(2,279)	(12)
Less: Tenant Improvement Allowance, net of administrative fee	(1,320)[1]	-
Present value of net minimum lease payments	$ 2,777	$ 129

(1) In accordance with ASC 842, a tenant allowance should be included in the measurement of the consideration in the lease agreement at inception and reflected as a reduction to the right-of-use asset and a corresponding reduction to the right-use-liability if the lessee both controls the construction of the tenant improvements and the expects to fully earn all of the tenant allowance. Oncocyte has met both conditions at the inception of the Irvine Lease and has recorded the Tenant Improvement Allowance accordingly. As the cash for the Tenant Improvement Allowance is received from the lessor under the terms of the Irvine Lease, the corresponding right-of-use liability will increase and will be amortized as part of the right-of use asset and liability amortization over the term of the Irvine Lease in accordance with ASC 842.

Wistar License Agreement

Oncocyte has entered into a License Agreement with The Wistar Institute of Anatomy and Biology ("Wistar") that entitles Oncocyte to use certain patents, know-how and data belonging to Wistar.

Under the License Agreement, Oncocyte has obtained an exclusive, worldwide license under certain patents, and under certain know-how and data ("Technical Information") belonging to Wistar, for use in the field of molecular diagnostics for lung cancer, including, but not limited to confirmatory, companion and recurrence diagnostics for any type of lung cancer with detection through whole blood, fractionated blood, plasma, serum and/or other biological samples. Oncocyte has the right to grant sublicenses of the licensed patents and Technical Information subject to certain conditions.

Oncocyte paid Wistar an initial license fee and will pay Wistar royalties on "net sales" of "licensed products," as such terms are defined in the License Agreement. The royalty rates will range from 3% to 5% depending upon the amount of cumulative net sales. The amount of royalties payable to Wistar will be reduced by the amount of any royalties that Oncocyte must pay to any third parties on the sale of the licensed products, but subject to a maximum reduction of 50%. The obligation to pay royalties to Wistar will terminate on a licensed product by-licensed product and country-by-country basis until the later of (i) the date a valid claim of a licensed patent covering the licensed product no longer exists, or (ii) the tenth (10th) anniversary of the first commercial sale of the licensed product in each country.

Oncocyte will pay Wistar a minimum annual royalty each year, which in each case will be credited against total royalties due during the year in which the minimum royalty is paid. Oncocyte will also be obligated to pay Wistar an annual license maintenance fee in the mid-five figures.

Oncocyte will also pay Wistar a portion of any non-royalty sublicensing income that Oncocyte may receive from any sub-licensee. Non-royalty sublicensing income will include any consideration received from a sub-licensee for granting the sublicense, but excluding royalties, the fair market value of any equity or debt securities sold to a sub-licensee, and any payments received from a sub-licensee for any related research conducted by Oncocyte for the sub-licensee.

Oncocyte also will pay Wistar (a) milestone payments upon the occurrence of certain milestone events in the development and commercialization of a licensed product, and (b) all past or ongoing costs incurred or to be incurred by Wistar, including government fees and attorneys' fees, in the course of prosecuting the licensed patents.

Oncocyte has agreed to use commercially reasonable diligent efforts, directly or through sub-licensees, to develop and commercialize licensed products. Oncocyte has agreed that it or a sub-licensee will commence commercial sale of a licensed product by a specified date. If sales of a licensed product do not commence by the specified date, Oncocyte may purchase up to three one-year extensions of the deadline by paying Wistar a designated fee for the applicable extension. Oncocyte has agreed to purchase additional extensions.

Oncocyte has agreed to indemnify Wistar and its trustees, managers, officers, agents, employees, faculty, affiliated investigators, personnel and staff from and against certain claims and liabilities related to the License Agreement and development, manufacture and sale of licensed products, excluding liabilities that result from or arise out of an indemnified party's gross negligence or willful misconduct.

Wistar has the right to terminate the License Agreement, subject to certain notice and cure periods and *force majeure* delays in certain cases, if any of the following occur: (a) Oncocyte fails to pay any amount payable to Wistar; (b) Oncocyte materially breaches any covenant or agreement or any continuing representation or warranty contained in the License Agreement; (c) Oncocyte becomes subject to certain bankruptcy or insolvency events, (d) Oncocyte dissolves or ceases operations, (e) Oncocyte or any of its affiliates or sub-licensees or affiliates of any our sub-licensees challenges the validity, patentability, scope, construction, enforceability, non-infringement, or Wistar's ownership of any issued patent comprising the licensed patents, or assists any third party in any such challenge; or (f) Oncocyte fails to fulfill its product development and commercialization diligence obligations and related performance milestones.

Oncocyte may terminate the License Agreement, with or without cause, upon the passage of a specified period of time after giving Wistar written notice of termination.

Litigation – General

Oncocyte will be subject to various claims and contingencies in the ordinary course of its business, including those related to litigation, business transactions, employee-related matters, and other matters. When Oncocyte is aware of a claim or potential claim, it assesses the likelihood of any loss or exposure. If it is probable that a loss will result and the amount of the loss can be reasonably estimated, Oncocyte will record a liability for the loss. If the loss is not probable or the amount of the loss cannot be reasonably estimated, Oncocyte discloses the claim if the likelihood of a potential loss is reasonably possible and the amount involved could be material.

Tax Filings

Oncocyte tax filings are subject to audit by taxing authorities in jurisdictions where it conducts business. These audits may result in assessments of additional taxes that are subsequently resolved with the authorities or potentially through the courts. Management believes Oncocyte has adequately provided for any ultimate amounts that are likely to result from these audits; however, final assessments, if any, could be significantly different than the amounts recorded in the financial statements.

Employment Contracts

Oncocyte has entered into employment contracts with certain executive officers. Under the provisions of the contracts, Oncocyte may be required to incur severance obligations for matters relating to changes in control, as defined, and involuntary terminations.

Indemnification

In the normal course of business, Oncocyte may provide indemnification of varying scope under Oncocyte's agreements with other companies or consultants, typically Oncocyte's clinical research organizations, investigators, clinical sites, suppliers and others. Pursuant to these agreements, Oncocyte will generally agree to indemnify, hold harmless, and reimburse the indemnified parties for losses and expenses suffered or incurred by the indemnified parties arising from claims of third parties in connection with the use or testing of Oncocyte's diagnostic tests. Indemnification provisions could also cover third party infringement claims with respect to patent rights, copyrights, or other intellectual property pertaining to Oncocyte's diagnostic tests. The term of these indemnification agreements will generally continue in effect after the termination or expiration of the particular research, development, services, or license agreement to which they relate. The Purchase Agreement also contains provisions under which Oncocyte has agreed to indemnify Razor and Encore from losses and expenses resulting from breaches or inaccuracy of Oncocyte's representations and warranties and breaches or nonfulfillment of Oncocyte's covenants, agreements, and obligations under the Purchase Agreement. The potential future payments Oncocyte could be required to make under these indemnification agreements will generally not be subject to any specified maximum amounts. Historically, Oncocyte has not been subject to any claims or demands for indemnification. Oncocyte also maintains various liability insurance policies that limit Oncocyte's financial exposure. As a result, Oncocyte management believes that the fair value of these indemnification agreements is minimal. Accordingly, Oncocyte has not recorded any liabilities for these agreements as of December 31, 2019 and 2018.

11. Subsequent Events

Sales of Common Stock

On January 2, 2020, Oncocyte entered into Subscription Agreements with selected investors, including Broadwood and certain funds and accounts managed by Pura Vida Investments LLC, in a registered direct offering of 3,523,776 shares of common stock, no par value, at an offering price of $2.156 per share, for an aggregate purchase price of approximately $7.6 million.

Acquisition of Insight Genetics, Inc.

On January 31, 2020, Oncocyte completed its acquisition of Insight Genetics, Inc., pursuant to a previously announced Agreement and Plan of Merger, dated as of January 10, 2020 (see Note 1).

Merger Consideration at Closing

Under the terms of the Merger Agreement, Oncocyte agreed to pay $7 million in cash and $5 million of Oncocyte common stock (the "Merger Consideration"), subject to a holdback for indemnity claims not to exceed ten percent of the total Merger Consideration. On the Merger Date, Oncocyte delivered approximately $11.4 million in Merger Consideration, consisting of $6.4 million in cash, which was net of a $0.6 million cash holdback, and 1.9 million shares of Oncocyte common stock, which includes the stock holdback shares discussed below, valued at $5 million, based on the average closing price of Oncocyte common stock on the NYSE American during the five trading days immediately preceding the date of the Merger Agreement. The parties agreed to holdback $0.6 million in cash ("Cash Holdback") and approximately 0.2 million shares of Oncocyte common stock ("Stock Holdback") through December 31, 2020, in the event that Oncocyte has indemnity claims. The Stock Holdback shares are considered to be issued and outstanding shares of Oncocyte common stock as of the Merger Date but were placed in an escrow account and will be released from escrow after the holdback period, less any shares that may be returned to Oncocyte on account of any indemnity claims.

Milestone Payments (Contingent Consideration)

In addition to the Merger Consideration, Oncocyte may also pay contingent consideration of up to $6.0 million in any combination of cash or shares of Oncocyte common stock if certain milestones are achieved (the "Contingent Consideration"), which consist of (i) a $1.5 million clinical trial completion and data publication milestone, (ii) $3.0 million for an affirmative final local coverage determination from Centers for Medicare and Medicaid Services ("CMS") for a specified lung cancer test, and (iii) up to $1.5 million for achieving certain CMS reimbursement milestones.

Revenue Share (Royalties) (Royalty Contingent Consideration)

As additional consideration for Insight's shareholders, the Merger Agreement provides for Oncocyte to pay a revenue share of not more than ten percent of net collected revenues for current Insight pharma service offerings over a period of ten years, and a tiered revenue share percentage of net collected revenues through the end of the technology lifecycle if certain new cancer tests are developed and commercialized using Insight technology.

Registration Rights

Pursuant to the Merger Agreement, Oncocyte agreed to file a registration statement with the SEC and to use reasonable efforts to register under the Securities Act the resale of the shares of common stock issued in connection with the Merger within six months following the closing.

Workforce

In connection with the closing of the Merger, Oncocyte did not assume sponsorship of the Insight Equity Incentive Plan. Accordingly, the Insight Equity Incentive Plan and all related stock options to purchase shares of Insight common stock outstanding immediately prior to the Merger, were canceled on the Merger Date for no consideration. At the Merger Date, all of Insight's employees ceased employment with Insight and Oncocyte offered employment agreements to certain of those former Insight employees, principally in laboratory roles and certain administrative roles ("New Oncocyte Employees"), including granting of new equity awards under the Oncocyte 2018 Equity Incentive Plan. All Oncocyte stock option awards granted to the New Oncocyte Employees have vesting terms and conditions consistent with stock options granted to most other Oncocyte employees.

Stock Option Grants

In February 2020, Oncocyte granted stock options to purchase 2.1 million common shares with an exercise price of $2.63 per share to its employees, including to "New Oncocyte Employees", under the 2018 Incentive Plan. These grants are subject to the customary vesting terms and conditions in accordance with the 2018 Incentive Plan.

ATM Agreement

On March 20, 2020, Oncocyte entered into an Equity Distribution Agreement ("ATM Agreement") with Piper Sandler & Co. as "Sales Agent", which Oncocyte may utilize to raise up to $25 million of additional equity capital through the sale of shares of Oncocyte common stock in "at-the- market" transactions through the Sales Agent.

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

Not applicable.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

It is management's responsibility to establish and maintain adequate internal control over all financial reporting pursuant to Rule 13a-15 under the Exchange Act. Our management, including our principal executive officer and our principal financial officer, have reviewed and evaluated the effectiveness of our disclosure controls and procedures as of the end of our fourth quarter. Following this review and evaluation, management collectively determined that our disclosure controls and procedures are effective to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act (i) is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms; and (ii) is accumulated and communicated to management, including our chief executive officer and our chief financial officer, as appropriate to allow timely decisions regarding required disclosure.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting that occurred during the fourth quarter our fiscal year ended December 31, 2019 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Management's Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting, as defined in Exchange Act Rule 13a-15(f), is a process designed by, or under the supervision of, our principal executive officer, our principal operations officer, and our principal financial officer, and effected by our Board of Directors, management, and other personnel, 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 and includes those policies and procedures that:

- Pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of our assets;
- Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and
- Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. 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. All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2019, based on criteria established in the 2013 Internal Control - Integrated Framework issued by COSO. Based on this assessment, management believes that, as of that date, our internal control over financial reporting was effective.

Item 9B. Other Information

Oncocyte has adopted, effective March 2020, the Oncocyte Corporation Change in Control and Severance Plan (the "CIC Plan") which provides change in control and other severance benefits to a select group of our management or highly compensated employees. The CIC Plan is effective for eligible employees who receive and execute a Change in Control and Severance Agreement ("CIC Agreement") and who otherwise satisfy the conditions set forth in their CIC Agreement and the provisions of the CIC Plan.

As the CIC Plan Administrator, Oncocyte has the full and sole discretionary authority to administer and interpret the CIC Plan, including discretionary authority to determine eligibility for participation in and for benefits under the CIC Plan and to determine the amount of benefits payable per participant. The CIC Plan is unfunded, and all benefits will be paid from the general corporate assets. No contributions are required under the CIC Plan.

The CIC Plan is designed to be an "employee welfare benefit plan," as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). As CIC Plan Administrator, Oncocyte is the "named fiduciary" of the CIC Plan for purposes of ERISA and will be subject to the applicable fiduciary standards of ERISA when acting in such capacity. The Company may delegate in writing to any other person all or a portion of its authority.

Pursuant to the CIC Plan, we have entered into CIC Agreements with certain employees, including our President and Chief Executive Officer, Ronald Andrews, our Chief Financial Officer, Mitchell Levine, and our Chief Scientific Officer, Dr. Lyndal Hesterberg. Each of their CIC Agreements provides that if we terminate the executive's employment without "cause" or if the executive resigns for "good reason" otherwise than within three months before or twelve months after a "change in control," as those terms are defined in the CIC Agreement, the executive will receive a severance payment in the amount of 12 months of his base salary and accelerated vesting of stock options, restricted stock units, and any other equity awards ("Equity Awards") that were schedule to vest based on the passage of time during the 12 months following the termination of his employment. If we terminate the executive's employment without "cause" or if the executive resigns for "good reason" within three months before or twelve months after a "change in control," the executive will receive a severance payment in the amount of

12 months of his base salary, his target bonus for the year, and accelerated vesting of all unvested Equity Awards. In addition to the foregoing, the terminated executive will receive a lump sum payment (which shall not be grossed up for applicable income and employment taxes) equal to twelve months of the premium costs of group health plan continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") to the same extent provided under Oncocyte's group health plan. In order to receive the severance benefits, the executive must execute and comply with a separation agreement and general release of all claims against Oncocyte.

The foregoing descriptions of the CIC Plan and the CIC Agreements are a summaries only, do not purport to be complete, and are qualified in all respects by the full terms of the CIC Plan and the form of CIC Agreement, copies of which are filed as exhibits to this Report and are incorporated herein by reference.

PART III

Item 10. Directors, Executive Officers, and Corporate Governance

Information about each of our directors and each nominee for election as a director is contained under the caption "Election of Directors" in our Proxy Statement for our 2020 Annual Meeting of Shareholders and is incorporated herein by reference. Information about our executive officers, and committees of the Board of Directors, reported under the caption "Corporate Governance," in our Proxy Statement for our 2020 Annual Meeting of Shareholders is incorporated herein by reference.

We have a written Code of Business Conduct and Ethics ("Code of Ethics") that applies to our principal executive officer, our principal financial officer and accounting officer, our other executive officers, our other employees, and our directors. The purpose of the Code of Ethics is to deter wrongdoing and to promote (i) honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships; (ii) full, fair, accurate, timely, and understandable disclosure in reports and documents that we file with or submit to the SEC and in our other public communications; (iii) compliance with applicable governmental rules and regulations; (iv) prompt internal reporting of violations of the Code of Ethics to an appropriate person or persons identified in the Code; and (v) accountability for adherence to the Code. A copy of our Code of Ethics has been posted on our internet website and can be found at *www.oncocyte.com*. If we amend or waive a provision of our Code of Ethics that applies to our chief executive officer or chief financial officer, we will post the amended Code of Ethics or information about the waiver on our internet website.

Information about our compliance with Section 16(a) of the Securities Exchange Act of 1934 reported under the caption "Compliance with Section 16(a) of the Securities Exchange Act of 1934" in our Proxy Statement for our 2020 Annual Meeting of Shareholders is incorporated herein by reference.

Item 11. Executive Compensation

Information about compensation of our executive officers reported under the caption "Executive Compensation," and information about compensation of directors reported under the caption "Director Compensation," in our Proxy Statement for our 2020 Annual Meeting of Shareholders is incorporated herein by reference.

Item 12. Security Ownership of Certain Beneficial Owners and Management, and Related Stockholder Matters

Information on the number of common shares of Oncocyte beneficially owned by each shareholder known by us to be the beneficial owner of 5% or more of our common shares, and by each director and named executive officer, and by all directors and named executive officers as a group, contained under the caption "Principal Shareholders" in our Proxy Statement for our 2020 Annual Meeting of Shareholders, is incorporated herein by reference.

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

Information about transactions with related persons; review, and approval or ratification of transactions with related persons reported under the caption "Principal Shareholders," and information about director independence reported under the caption "Election of Directors," in our Proxy Statement for our 2020 Annual Meeting of Shareholders is incorporated herein by reference.

Item 14. Principal Accounting Fees and Services

Information about our Audit Committee's pre-approval policy for audit services, and information on our principal accounting fees and services reported under the caption "Ratification of the Selection of Our Independent Auditors" in our Proxy Statement for our 2020 Annual Meeting of Shareholders is incorporated herein by reference.

PART IV

Item 15. Exhibits, Financial Statement Schedules

(a- Financial Statements.
1)

The following financial statements of OncoCyte Corporation are filed in the Form 10-K:

Balance Sheets
Statements of Operations
Statements of Comprehensive Loss
Statements of Shareholders' Equity
Statements of Cash Flows

Exhibit Numbers	Exhibit Description
2.1	Subscription and Stock Purchase Agreement, dated September 4, 2019, among OncoCyte Corporation, Encore Clinical, Inc., and Razor Genomics Inc.† (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on October 3, 2019)
2.2	Agreement and Plan of Merger, dated as of January 10, 2020, among OncoCyte Corporation, Cancer DX Sub, Inc., Insight Genetics, Inc., the Shareholders who became a Party to the Merger Agreement and the Equityholder Representative. (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on February 5, 2020)
3.1	Articles of Incorporation with all amendments (Incorporated by reference to OncoCyte Corporation's Form 8-K filed with the Securities and Exchange Commission on August 29, 2018)
3.2	Amended and Restated By-Laws (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on March 6, 2020)
4.1	Specimen of Common Stock Certificate (Incorporated by reference to OncoCyte Corporation's Form 10 12(b) filed with the Securities and Exchange Commission on November 23, 2015)
4.2	Form of August 2016 Warrant (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on August 29, 2016)
4.3	Form of 2017 Warrant, Exercise Price $3.25 (Incorporated by reference to OncoCyte Corporation's Annual Report on Form 10-K filed with the Securities and Exchange Commission on February 27, 2017)
4.4	Form of 2017 Warrant, Exercise Price $5.50 (Incorporated by reference to OncoCyte Corporation's Annual Report on Form 10-K filed with the Securities and Exchange Commission on February 27, 2017)
4.5	Silicon Valley Bank Warrant (Incorporated by reference to OncoCyte Corporation's Annual Report on Form 10-K filed with the Securities and Exchange Commission on February 27, 2017)
4.6	Form of July 2017 Warrant, Exercise Price $5.50; five-year term (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 26, 2017)
4.7	Form of July 2017 Warrant, Exercise Price $3.25, five-year term (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 26, 2017)
4.8	Form of July 2018 Warrant (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on August 1, 2018)
4.9	Warrant to Purchase Shares of Common Stock, dated August 1, 2019 (Incorporated by reference to OncoCyte Corporation's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on August 14, 2019)
4.10	Warrant to Purchase Common Stock, dated October 17, 2019, between OncoCyte Corporation and Silicon Valley Bank (Incorporated by Reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on October 21, 2019)

4.11	Description of Securities*
10.1	Form of Director/Consultant Option Agreement (Incorporated by reference to OncoCyte Corporation's Form 10 12(b) filed with the Securities and Exchange Commission on November 23, 2015)
10.2	Form of Employee Incentive Stock Option Agreement (Incorporated by reference to OncoCyte Corporation's Form 10 12(b) filed with the Securities and Exchange Commission on November 23, 2015)
10.3	Registration Rights Agreement dated October 15, 2009 (Incorporated by reference to OncoCyte Corporation's Form 10 12(b) filed with the Securities and Exchange Commission on November 23, 2015)
10.4	Amendment of Registration Rights Agreement, dated August 23, 2011 (Incorporated by reference to OncoCyte Corporation's Form 10 12(b) filed with the Securities and Exchange Commission on November 23, 2015)
10.5	Second Amendment of Registration Rights Agreement, dated May 8, 2015 (Incorporated by reference to OncoCyte Corporation's Form 10 12(b) filed with the Securities and Exchange Commission on November 23, 2015)
10.6	Third Amendment to Registration Rights Agreement, dated November 16, 2015 (Incorporated by reference to OncoCyte Corporation's Form 10 12(b) A-1 filed with the Securities and Exchange Commission on December 29, 2015)
10.7	License Agreement, dated January 22, 2016, between OncoCyte Corporation and The Wistar Institute of Anatomy and Biology (Portions of this exhibit have been omitted pursuant to a request for confidential treatment) (Incorporated by reference to OncoCyte Corporation's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 30, 2016)
10.8	First Amendment to License Agreement, dated January 25, 2016, between OncoCyte Corporation and The Wistar Institute of Anatomy and Biology (Incorporated by reference to OncoCyte Corporation's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 30, 2016)
10.9	Second Amendment to License Agreement, dated May 27, 2016, between OncoCyte Corporation and The Wistar Institute of Anatomy and Biology (Incorporated by reference to OncoCyte Corporation's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on August 11, 2016)
10.10	Employment Agreement, dated October 23, 2019, between OncoCyte Corporation and Lyndal Hesterberg*
10.11	Form of Alternate Warrant Exercise Agreement, dated February 17, 2017 (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on February 24, 2017)
10.12	Loan and Security Agreement, dated February 21, 2017, between OncoCyte Corporation and Silicon Valley Bank (Incorporated by reference to OncoCyte Corporation's Annual Report on Form 10-K filed with the Securities and Exchange Commission on February 27, 2017)
10.13	2017 Amendment to 2010 Stock Option Plan (Incorporated by reference to Registration Statement on Form S-8, File Number 333-219109 filed with the Securities and Exchange Commission on June 30, 2017)
10.14	Form of July 2017 Warrant Exercise Agreement, dated July 21, 2017 (July 2017 Warrant for 100% of shares received on exercise of Original Warrant, at $5.50 exercise price with five-year term) (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 26, 2017)
10.15	Form of July 2017 Warrant Exercise Agreement, dated July 21, 2017 (July 2017 Warrant for 50% of shares received on exercise of Original Warrant, at $3.25 exercise price with five-year term) (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 26, 2017)
10.16	Employment Agreement, dated November 15, 2017, between OncoCyte Corporation and Mitchell Levine (Incorporated by reference to OncoCyte Corporation's Annual Report on Form 10-K filed with the Securities and Exchange Commission on April 2, 2018)

10.17	Securities Purchase Agreement, dated March 28, 2018 (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on March 29, 2018)
10.18	Form of Securities Purchase Agreement dated July 26, 2018, by and among OncoCyte Corporation and the investors signatory thereto (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on August 1, 2018)
10.19	2018 Equity Incentive Plan (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on August 29, 2018)
10.20	Form of 2018 Equity Incentive Plan Employee Stock Option Agreement (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on August 29, 2018)
10.21	Form of 2018 Equity Incentive Plan Non-Employee Director Stock Option Agreement (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on August 29, 2018)
10.22	Form of 2018 Equity Incentive Plan Restricted Stock Unit Agreement (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on August 29, 2018)
10.23	Employment Agreement, dated August 6, 2018, between OncoCyte Corporation and Albert P. Parker (Incorporated by reference to OncoCyte Corporation's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 13, 2018)
10.24	Employment Agreement, dated May 22, 2019, between OncoCyte Corporation and Padma Sundar*
10.25	Employment Agreement, dated June 4, 2019, between OncoCyte Corporation and Ronald Andrews (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on June 6, 2019)
10.26	Transition Agreement, dated July 1, 2019, between OncoCyte Corporation and William Annett (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 8, 2019)
10.27	Amendment to 2018 Equity Incentive Plan (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 23, 2019)
10.28	Form of Minority Holder Stock Purchase Agreement, between OncoCyte Corporation and the persons named therein (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on October 3, 2019)
10.29	Development Agreement, dated September 30, 2019, among OncoCyte Corporation, Encore Clinical, Inc., and Razor Genomics Inc.† (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on October 3, 2019)
10.30	Sublicense and Distribution Agreement, dated September 30, 2019, among OncoCyte Corporation, Encore Clinical, Inc., and Razor Genomics Inc.† (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on October 3, 2019)
10.31	Laboratory Services Agreement, dated August 15, 2015, as amended, among OncoCyte Corporation, Encore Clinical, Inc., and Razor Genomics Inc.† (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on October 3, 2019)
10.32	First Amendment to Loan and Security Agreement, dated October 17, 2019, between OncoCyte Corporation and Silicon Valley Bank† (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on October 21, 2019)
10.33	Office Lease Agreement, dated December 23, 2019, as amended between OncoCyte Corporation and Cushing Ventures, LLC (Incorporated by reference to OncoCyte Corporation's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 27, 2019)

10.34	Lease Agreement, dated November 10, 2011, between Insight Genetics, Inc. and MPC Holdings, LLC, as renewed by notice dated January 3, 2019*
10.35	Oncocyte Corporation Change in Control and Severance Plan*
10.36	Form of Change in Control and Severance Agreement*
21	Subsidiaries
23.1	Consent of OUM & Co. LLP *
31	Rule 13a-14(a)/15d-14(a) Certification *
32	Section 1350 Certification *
101	Interactive Data Files *
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema
101.CAL	XBRL Taxonomy Extension Calculation Linkbase
101.DEF	XBRL Taxonomy Extension Definition Document
101.LAB	XBRL Taxonomy Extension Label Linkbase
101.PRE	XBRL Taxonomy Extension Presentation Linkbase

* Filed herewith

† Portions of this exhibit have been omitted because the omitted information is (i) not material and (ii) would likely cause competitive harm to the registrant if publicly disclosed

Item 16. Form 10-K Summary

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized on the 25th day of March 2020.

ONCOCYTE CORPORATION

By: */s/ Ronald Andrews*
Ronald Andrews
President and Chief Executive Officer

Signature	Title	Date
/s/ Ronald Andrews RONALD ANDREWS	President and Chief Executive Officer and Director (Principal Executive Officer)	March 25, 2020
/s/ Mitchell Levine MITCHELL LEVINE	Chief Financial Officer (Principal Financial and Accounting Officer)	March 25, 2020
/s/ Tony Kalajian TONY KALAJIAN	Sr. Vice President, Chief Accounting Officer (Principal Accounting Officer)	March 25, 2020
/s/ Melinda Griffith MELINDA GRIFFITH	Director	March 25, 2020
/s/ Andrew Arno ANDREW ARNO	Director	March 25, 2020
/s/ Alfred D. Kingsley ALFRED D. KINGSLEY	Director	March 25, 2020
/s/ Andrew Last ANDREW LAST	Director	March 25, 2020
/s/ Aditya Mohanty ADITYA MOHANTY	Director	March 25, 2020
/s/ Cavan Redmond CAVAN REDMOND	Director	March 25, 2020

Exhibit 4.11

DESCRIPTION OF SECURITIES

The following description of certain terms of OncoCyte Corporation ("Oncocyte") common stock is a summary and is qualified in its entirety by reference to (i) Oncocyte's Articles of Incorporation, as amended, (ii) Oncocyte's Amended and Restated Bylaw, and (iii) the California General Corporation Law.

Common Stock

The Oncocyte Articles of Incorporation currently authorize the issuance of up to 85,000,000 shares of common stock, no par value. Each holder of record of common stock is entitled to one vote for each outstanding share owned, on every matter properly submitted to the shareholders for their vote; provided, that if any shareholder entitled to vote at a meeting at which directors are to be elected gives timely notice of their intention to cumulate votes in the election of directors, shareholders may cumulate votes for the election of directors.

Subject to the dividend rights of holders of any preferred stock that may be issued from time to time, holders of common stock are entitled to any dividend declared by the Oncocyte Board of Directors out of funds legally available for that purpose.

Subject to the prior payment of the applicable liquidation preference to holders of any preferred stock that may be issued from time to time, holders of common stock are entitled to receive on a pro rata basis all remaining assets available for distribution to the holders of common stock in the event of the liquidation, dissolution, or winding up of Oncocyte's operations.

Holders of common stock do not have any preemptive, subscription, redemption, or conversion rights. There are no redemption or sinking fund provisions applicable to the common stock. The rights, powers, preferences and privileges of holders of Oncocyte common stock will be subject to those of the holders of any shares of Oncocyte preferred stock that may be issued in the future.

EMPLOYMENT AGREEMENT

EMPLOYMENT AGREEMENT ("Agreement") is made October 23, 2019 ("Effective Date"), by and between OncoCyte, Corporation (the "Company"), a California corporation and Lyndal Hesterberg ("Executive").

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. Engagement; Position and Duties.

(a) Position and Duties. The Company agrees to employ Executive in the position of Chief Scientific Officer to perform the duties as outlined on Exhibit A and as the Chief Executive Officer or the Board of Directors of the Company (the "Board of Directors") may from time to time direct or require. Executive shall report to the Chief Executive Officer. Executive shall devote best efforts, skills and abilities, on a full-time basis, exclusively to the Company's business. Executive covenants and agrees to faithfully adhere to and fulfill such policies as are established from time to time by the Board of Directors or the Company ("Policies").

(b) Performance of Services for Subsidiaries. Executive acknowledges and agrees that although OncoCyte does not have any subsidiaries as of the Effective Date, it is possible that OncoCyte will organize or acquire one or more subsidiary companies in the future, which may be wholly-owned or partially owned by OncoCyte (each a "Subsidiary"). In addition to the performance of services for Company, Executive shall, to the extent so required by Company, also perform services for one or more members of a consolidated group of which Company is a part ("Subsidiary"), provided that such services are consistent with the kind of services Executive performs or may be required to perform for Company under this Agreement. If Executive performs any services for any Subsidiary, Executive shall not be entitled to receive any compensation or remuneration in addition to or in lieu of the compensation and remuneration provided under this Agreement on account of such services for the Subsidiary. The Policies will govern Executive's employment by Company and any Subsidiaries for which Executive is asked to provide Services. In addition, Executive covenants and agrees that Executive will faithfully adhere to and fulfill such additional policies as may be established from time to time by the board of directors of any Subsidiary for which Executive performs services, to the extent that such policies and procedures differ from or are in addition to the Policies adopted by Company.

(c) No Conflicting Obligations. Executive represents and warrants to Company that Executive is under no obligations or commitments, whether contractual or otherwise, that are inconsistent with Executive's obligations under this Agreement or that would prohibit Executive, contractually or otherwise, from performing Executive's duties as under this Agreement and the Policies. The Company acknowledges that Executive has provided consulting services to Seer, Inc. ("Seer"), and Executive shall not be deemed to be in breach of this Agreement as a result of providing such services, provided, that he did not: (i) disclose any Confidential Information (as defined in the Confidentiality and IP Agreement attached hereto as Exhibit B) to Seer, Inc. or any of its officers, directors, representatives, or agents except at the request or direction of the

Company pursuant to that certain Confidential Disclosure Agreement, dated as of January 4, 2019, between the Company and Seer; or (b) assign to Seer any Invention or Intellectual Property Rights, as such terms are defined in the Confidentiality and IP Agreement attached hereto as Exhibit B, in contravention of such Confidentiality and IP Agreement.

(d) No Unauthorized Use of Third Party Intellectual Property. Executive represents and warrants to Company that Executive will not use or disclose, in connection with Executive's employment by Company or any Subsidiary, any patents, trade secrets, confidential information, or other proprietary information or intellectual property as to which any other person has any right, title or interest, except to the extent that Company or a Subsidiary holds a valid license or other written permission for such use from the owner(s) thereof. Executive represents and warrants to Company that Executive has returned all property and confidential information belonging to any prior employer.

2. Compensation

(a) Salary. During the term of this Agreement, Company shall pay to the Executive a salary of $347,280 annually effective March 18, 2019. Executive's salary shall be paid in equal semi-monthly installments, consistent with Company's regular salary payment practices. Executive's salary may be increased from time-to-time by Company, in Company's sole and absolute discretion, without affecting this Agreement.

(b) Bonus. Executive may be eligible for an annual bonus of up to 40% of Executive's annual salary, as may be approved by the Board of Directors in its discretion, based on Executive's achievement of predetermined Company and individual objectives set by the Board of Directors, or the Compensation Committee of the Board of Directors, from time to time. Executive also agrees that the Board of Directors and Company are not obligated to adopt any bonus plan, to maintain in effect any bonus plan that may now be in effect or that may be adopted during the term of Executive's employment, or to pay Executive a bonus unless a bonus is earned under the terms and conditions of any bonus plan adopted by Company provided, that unless otherwise provided in a bonus plan or award or in this Agreement, a bonus shall not be earned until paid and shall not be paid unless Executive remains an employee of Company on the date of payment..

(c) *Stock Options.* On March 14, 2019, the Company granted Executive options to purchase 350,000 shares of Company common stock, no par value, under the Company's 2018 Equity Incentive Plan (the "Plan"). The exercise price of the options is $3.52 per share of Company common stock, which was the fair market value of a share of common stock on the date of grant determined in accordance with the Plan. The options shall vest and thereby become exercisable as follows: 25% will vest upon the completion of one year of continuous service as an employee from the date of grant, and the balance will vest in 36 equal monthly installments commencing on the first anniversary of the date of grant, subject to the continuous service as an officer or employee of the Company on the applicable vesting date. Except to the extent that provisions of the Plan relating to termination of "continuous service" as an employee apply, to the extent not exercised, the options shall expire ten years from the effective date of grant. The options shall be incentive stock options to the extent permitted by Section 422 of the Internal

Revenue Code. Executive shall execute a stock option agreement provided by the Company consistent with the terms of the option grant and the Plan.

(d) Expense Reimbursements. Company or a Subsidiary shall reimburse Executive for reasonable travel and other business expenses incurred by Executive in the performance of Executive's duties under this Agreement, subject to the Policies and procedures in effect from time to time, and provided that Executive submits supporting vouchers. For air travel in excess of two (2) hours, Executive will be reimbursed for business class airfare. For the purposes of this Agreement, Executive's primary work place will be the Executive's home office; provided, that if the Executive relocates to the Metropolitan Area (as defined in Section 2(g)) Executive's primary workplace will be the location of the Company's office or laboratory in the Metropolitan Area.

(e) Benefit Plans. Executive may be eligible (to the extent Executive qualifies) to participate in certain retirement, pension, life, health, accident and disability insurance, equity incentive plan or other similar employee benefit plans, which may be adopted by Company for its executive officers or other employees. Company and the Subsidiaries have the right, at any time and without any amendment of this Agreement, and without prior notice to or consent from Executive, to adopt, amend, change, or terminate any such benefit plans that may now be in effect or that may be adopted in the future, in each case without any further financial obligation to Executive; provided that such unilateral change does apply to Executive in a manner different than other Company executives or employees of a comparable executive level, except for changes required by applicable federal, state, or local law, or implemented in response to any change of federal, state or local law or regulation. Any benefits to which Executive may be entitled under any benefit plan shall be governed by the terms and conditions of the applicable benefit plan, and any related plan documents, as in effect from time to time. If Executive receives any grant of stock options or stock or stock related equity awards ("Awards") under any stock option plan, stock purchase plan, or other equity incentive plan of Company (an "Equity Plan"), the terms and conditions of the Award, and Executive's rights with respect to the Award, shall be governed by (i) the terms of the Equity Plan, as the same may be amended from time to time, and (ii) the terms and conditions of any stock option agreement, stock purchase agreement, or other agreement that Executive may sign or be required to sign with respect to any Award.

(f) Vacation; Sick Leave. Executive shall be entitled to 20 paid time off days (accrued on a biweekly pay period basis and capped at 1.5 times the yearly accrual), 24 hours of annual sick leave, without reduction in compensation, during each calendar year, or as may be provided by the Policies. Executive's vacation shall be taken at such time as is consistent with the needs and Policies of Company and its Subsidiaries. All vacation days and sick leave days shall accrue annually based upon days of service. Executive's right to leave from work due to illness is subject to the Policies and the provisions of this Agreement governing termination due to disability, sickness or illness. The Policies governing the disposition of unused vacation days and sick leave days remaining at the end of Company's fiscal year shall govern whether unused vacation days or sick leave days will be paid, lost, or carried over into subsequent fiscal years.

(g) Relocation. If Executive elects to relocate his principal residence to the current or any future vicinity where the Company's principal office, research laboratory, or CLIA

laboratory is located (the "Metropolitan Area"), the Company will provide Executive with the following benefits ("Relocation Benefits"):

(i) Two house hunting trips for Executive and his wife, including round trip airfare to and from the Metropolitan Area;

(ii) Up to 90 days of temporary housing or similar accommodations in the Metropolitan Area, and temporary storage of household goods;

(iii) Moving of household goods to Executive's new principal residence in the Metropolitan Area;

(v) A miscellaneous expense budget of $5,000.00 to cover incidental expenses related to relocation to the Metropolitan Area;

(vi) Funds to cover the first two points of a mortgage loan for a new principal residence in the Metropolitan Area;

(vii) If the relocation expenses are not deductible by Executive on his Federal income tax return, the Company will pay Executive an amount necessary to "gross-up" the amount of Relocation Expenses taxable to him for Federal income tax purposes.

(h) Reimbursement of Company for Relocation Benefits. Executive agrees that he will reimburse the Company on demand for the full amount of the Relocation Benefits paid by the Company if (i) Executive resigns within two years after he relocates his principal residence to the Metropolitan Area other than a resignation for Good Reason within one year after a Change of Control, Good Reason and Change of Control are defined in Section 5; or (ii) the Company or a successor after a Change of Control terminates Executive's employment with cause within two years after relocation of Executive's principal residence to the Metropolitan Area.

3. Competitive Activities. During the term of Executive's employment, and for twenty-four months thereafter, Executive shall not, for Executive or any third party, directly or indirectly employ, solicit for employment or recommend for employment any person employed by Company or any Subsidiary. During the term of Executive's employment, Executive shall not, directly or indirectly as an employee, contractor, officer, director, member, partner, agent, or equity owner, engage in any activity or business that competes or could reasonably be expected to compete with the business of Company or any Subsidiary. Executive acknowledges that there is a substantial likelihood that the activities described in this Section would (a) involve the unauthorized use or disclosure of Company's or a Subsidiary's Confidential Information and that use or disclosure would be extremely difficult to detect, and (b) result in substantial competitive harm to the business of Company or a Subsidiary. Executive has accepted the limitations of this Section as a reasonably practicable and unrestrictive means of preventing such use or disclosure of Confidential Information and preventing such competitive harm.

4. Inventions/Intellectual Property/Confidential Information. Executive acknowledges the execution and delivery to Company of an Employee Confidential Information and Inventions Assignment Agreement" (the "Confidentiality and IP Agreement"), attached hereto as **Exhibit B**.

5. Termination of Employment. Executive understands and agrees that Executive's employment has no specific term. This Agreement, and the employment relationship, are "at will" and may be terminated by Executive or by Company (and the employment of Executive by any Subsidiary by be terminated by the Subsidiary) with or without cause at any time by notice given orally or in writing. Except as otherwise agreed in writing or as otherwise provided in this Agreement, upon termination of Executive's employment, Company and the Subsidiaries shall have no further obligation to Executive, by way of compensation or otherwise, as expressly provided in this Agreement or in any separate employment agreement that might then exist between Executive and a Subsidiary.

(a) Payments Due Upon Termination of Employment. Upon termination of Executive's employment with Company at any time and for any reason, in the event of the termination of Executive's employment by Company for Cause, or termination of Executive's employment as a result of death, Disability, or resignation, Executive will be entitled to receive only the severance benefits set forth below, and Executive will not be entitled to any other compensation, award, or damages with respect to Executive's employment or termination of employment.

(i) Termination for Cause, Death, Disability, or Resignation. In the event of the termination of Executive's employment by Company for Cause, or termination of Executive's employment as a result of death, Disability, or resignation, Executive will be entitled to receive payment for all accrued but unpaid salary actually earned prior to or as of the date of termination of Executive's employment, and vacation or paid time off accrued as of the date of termination of Executive's employment. Executive will not be entitled to any cash severance benefits or additional vesting of any stock options or other equity or cash awards.

(ii) Termination Without Cause. In the event of termination of Executive's employment by Company without Cause, Executive will be entitled to: (A) the benefits set forth in paragraph (a)(i) of this Section; (B) six (6) months' base salary, either of which may be paid in a lump sum or, at the election of the Company, in installments consistent with the payment of Executive's salary while employed by the Company, subject to such payroll deductions and withholdings as are required by law; (C) payment of such portion of any bonus earned through the actual attainment of such objective performance goals as may have been set by the Compensation Committee or Board of Directors for the earning of a bonus for the year in which Executive was terminated without Cause, subject to such payroll deductions and withholdings as are required by law; and (D) payment, for a period of six (6) months, of any health insurance benefits that Executive was receiving at the time of termination of Executive's employment under a Company employee health insurance plan subject to COBRA. This paragraph shall not apply to (x) termination of Executive's employment by a Subsidiary if Executive remains employed by Company, or (y) termination of Executive's employment by Company if Executive remains employed by a Subsidiary.

(iii) **Change of Control.** If Company (or any successor in interest to Company that has assumed Company's obligation under this Agreement) terminates Executive's employment without Cause or Executive resigns for Good Reason within twelve (12) months following a Change of Control, Executive will be entitled to the benefits set forth in paragraph (a)(i) and (a)(ii) of this Section. This paragraph shall not apply to (x) termination of Executive's employment by a Subsidiary if Executive remains employed by Company or a successor in interest, or (y) termination of Executive's employment by Company or a successor in interest if Executive remains employed by a Subsidiary.

(b) Release. The Company's obligation to make such payments under paragraphs (a)(ii) and (a)(iii) of this Section and provide any other such benefits contemplated herein shall be contingent upon:

(i) Executive's execution of a release in a form reasonably acceptable to the Company (the "Release"), which Release must be signed and any applicable revocation period with respect thereto must have expired by the 30th day following Executive's termination of employment. The Release will not waive any of Executive's rights, or obligations of the Company or its successor in interest and the Subsidiaries, regarding: (1) any right to indemnification and/or contribution, advancement or payment of related expenses Executive may have pursuant to the Company's Bylaws, Articles of Incorporation, under any written indemnification or other agreement between the parties, and/or under applicable law; (2) any rights that Executive may have to insurance coverage under any directors and officers liability insurance, other insurance policies of the Company, COBRA or any similar state law; (3) any claims for worker's compensation, state disability or unemployment insurance benefits, or any other claims that cannot be released as a matter of applicable law; (4) rights to any vested benefits under any stock, compensation or other employee benefit plan of the Company; (5) any rights Executive may have as an existing shareholder of the Company; and (6) any claims arising after the effective date of the Release. Nothing in the Release or any other agreement between Executive and the Company will prohibit or prevent Executive from providing truthful testimony or otherwise responding accurately and fully to any question, inquiry or request for information or documents when required by legal process, subpoena, notice, court order or law (including, without limitation, in any criminal, civil, or regulatory proceeding or investigation), or as necessary in any action for enforcement or claimed breach of this Agreement or any other legal dispute with the Company. If the Release has been signed and any applicable revocation period has expired prior to the 30th day following Executive's termination of employment, then the severance payments above may be made on such earlier date; provided, however, that if the 30th day following Executive's termination of employment occurs in the calendar year following the year of Executive's termination date, then the payments shall not be made earlier than January 1 of such subsequent calendar year; and

(ii) Executive's tendering a written resignation as a director, if serving as a director of Company or any Subsidiary, as provided in Section 7.

(c) Section 280G of the Code.

(i) Notwithstanding anything in this Agreement to the contrary, if any payment, distribution, or other benefit provided by the Company to or for the benefit of Executive, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise (collectively, the "Payments"), (x) constitute a "parachute payment" within the meaning of Section 280G of the Code, and (y) but for this Section 5(c) would be subject to the excise tax imposed by Section 4999 of the Code or any similar or successor provision thereto (the "Excise Tax"), then the Payments shall be either: (A) delivered in full pursuant to the terms of this Agreement, or (B) delivered to such lesser extent as would result in no portion of the payment being subject to the Excise Tax, as determined in accordance with Section 5(b).

(ii) The determination of whether Section 5(c)(i)(A) or Section 5(c)(i)(B) shall be given effect shall be made by the Company on the basis of which of such clauses results in the receipt by Executive of the greater Net After-Tax Receipt (as defined herein) of the aggregate Payments. The term "Net After-Tax Receipt" shall mean the present value (as determined in accordance with Section 280G of the Code) of the payments net of all applicable federal, state and local income, employment, and other applicable taxes and the Excise Tax.

(iii) If Section 5(c)(i)(B) is given effect, the reduction shall be accomplished in accordance with Section 409A of the Code and the following: first by reducing, on a pro rata basis, cash Payments that are exempt from Section 409A of the Code; second by reducing, on a pro rata basis, other cash Payments; and third by forfeiting any equity-based awards that vest and become payable, starting with the most recent equity-based awards that vest, to the extent necessary to accomplish such reduction.

(iv) Unless the Company and Executive otherwise agree in writing, any determination required under this Section 5(c) shall be made by the Company's independent accountants or compensation consultants (the "Third Party"), and all such determinations shall be conclusive, final and binding on the parties hereto. The Company and Executive shall furnish to the Third Party such information and documents as the Third Party may reasonably request in order to make a determination under this Section 5(c). The Company shall bear all fees and costs of the Third Party with respect to all determinations under or contemplated by this Section 5(c).

(d) Definitions. For purposes of this Section, the following definitions shall apply:

(i) "Affiliated Group" means (A) a Person and one or more other

Persons in control of, controlled by, or under common control with such Person; and (B) two or more Persons who, by written agreement among them, act in concert to acquire Voting Securities entitling them to elect a majority of the directors of Company.

(ii) "Cause" shall mean a termination of Executive's employment based upon a finding by a majority of the Board of Directors of the Company or its successor, acting in good faith and based on its reasonable belief at the time, that Executive (a) has refused to perform the explicitly stated or reasonably assigned, lawful, and material duties required by Executive's position (other than by reason of a disability or analogous condition); (b) has committed or engaged in a material act of theft, embezzlement, dishonesty or fraud, a breach of confidentiality, an unauthorized disclosure or use of inside information, customer lists, trade secrets or other confidential information; (c) has breached a material fiduciary duty, or willfully and materially violated any other duty, law, rule, or regulation relating to the performance of Executive's duties to the Company or material policy of the Company or its successor; (d) has been convicted of, or pled guilty or nolo contendere to, misdemeanor involving moral turpitude or a felony; (e) has willfully and materially breached any of the provisions of any agreement with the Company or its successor which causes material injury to the Company; (f) has willfully engaged in unfair competition with, or otherwise acted intentionally in a manner materially injurious to the reputation, business or assets of, the Company or its successor; (g) has improperly induced a vendor or customer to break or terminate any material contract with the Company or its successor or induced a principal for whom the Company or its successor acts as agent to terminate such agency relationship; or (h) has obtained, in connection with any transaction in which Company, any Subsidiary, or any of Company's affiliates is a party, a material undisclosed financial benefit for Executive or for any member of Executive's immediate family or for any corporation, partnership, limited liability company, or trust in which Executive or any member of Executive's immediate family owns a material financial interest. For purposes of this Agreement, no act or failure to act on Executive's part will be considered "willful" unless it is done, or omitted to be done, by Executive intentionally, not in good faith or without reasonable belief that the action or omission was in the best interest of the Company.

(iii) "Change of Control" means (A) the acquisition of Voting Securities of Company by a Person or an Affiliated Group entitling the holder thereof to elect a majority of the directors of Company; provided, that an increase in the amount of Voting Securities held by a Person or Affiliated Group who on the date of this Agreement owned beneficially owned (as defined in Section 13(d) of the Securities Exchange Act of 1934, as amended, and the regulations thereunder) more than 10% of the Voting Securities shall not constitute a Change of Control; and provided, further, that an acquisition of Voting Securities by one or more Persons acting as an underwriter in connection with a sale or distribution of such Voting Securities shall not constitute a Change of Control under this clause (A); (B) the sale of all or substantially all of the assets of Company; or (C) a merger or consolidation of Company with or into another corporation or entity

in which the stockholders of Company immediately before such merger or consolidation do not own, in the aggregate, Voting Securities of the surviving corporation or entity (or the ultimate parent of the surviving corporation or entity) entitling them, in the aggregate (and without regard to whether they constitute an Affiliated Group) to elect a majority of the directors or persons holding similar powers of the surviving corporation or entity (or the ultimate parent of the surviving corporation or entity); provided, however, that in no event shall any transaction described in clauses (A), (B) or (C) be a Change of Control if all of the Persons acquiring Voting Securities or assets of Company or merging or consolidating with Company are one or more Subsidiaries.

(iv) "Disability" shall mean Executive's inability to perform the essential functions of Executive's job responsibilities for a period of one hundred eighty (180) days in the aggregate in any twelve (12) month period.

(v) "Good Reason" shall mean the occurrence of any of the following events or circumstances without Executive's written consent: (i) a material diminution in Executive's base salary; (ii) a material diminution in Executive's authority, duties or responsibility (for example, if Executive is required to report to anyone other than a Chief Executive Officer or the Board of Directors of the Company (or a Subsidiary) or the successor of the Company).; (iii) a material change in the principal geographic location at which Executive performs services (a change in location of Company's office at which Executive will primarily work will be considered material only if it increases Executive's current one-way commute by more than fifty (50) miles); (iv) any requirement that Executive engage in any illegal conduct; (v) a material breach by the Company of this Agreement; or (vi) Executive's primary role being moved to a Subsidiary, unless Executive reasonably agrees to the move of the primary role, which agreement shall not be unreasonably withheld.

(vi) "Person" means any natural person or any corporation, partnership, limited liability company, trust, unincorporated business association, or other entity.

(vii) "Voting Securities" means shares of capital stock or other equity securities entitling the holder thereof to regularly vote for the election of directors (or for person performing a similar function if the issuer is not a corporation), but does not include the power to vote upon the happening of some condition or event which has not yet occurred.

6. **Turnover of Property and Documents on Termination.** Executive agrees that on or before termination of Executive's employment, Executive will return to Company, and all Subsidiaries, all equipment and other property belonging to Company and the Subsidiaries, and all originals and copies of confidential information (in any and all media and formats, and including any document or other item containing Confidential Information as defined in Exhibit B) in Executive's possession or control, and all of the following (in any and all media and

formats, and whether or not constituting or containing confidential information) in Executive's possession or control: (a) lists and sources of customers; (b) proposals or drafts of proposals for any research grant, research or development project or program, marketing plan, licensing arrangement, or other arrangement with any third party; (c) reports, notations of the Executive, laboratory notes, specifications, and drawings pertaining to the research, development, products, patents, and technology of Company and any Subsidiaries; (d) any and all intellectual property developed by Executive during the course of employment; and (e) the manual and memoranda related to the Policies. To the extent there is a conflict between this Section 6 and the Confidentiality and IP Agreement executed by the Executive, the Confidentiality and IP Agreement provisions control.

7. **Resignation as a Director on Termination of Employment.** If Executive's employment by Company is terminated for any reason or for no reason, whether by way of resignation, Disability, or termination by Company with or without Cause, and if Executive is then a member of the Board of Directors of Company or any Subsidiary, Executive shall within two business days after such termination of employment resign from the Board of Directors of Company and from the board of directors of each and every Subsidiary, by delivering to Company (and each Subsidiary, as applicable) a letter or other written communication addressed to the Board of Directors of Company (and each Subsidiary, as applicable) stating that Executive is resigning from the Board of Directors of Company (and each Subsidiary, as applicable) effective immediately. A business day shall be any day other than a Saturday, Sunday, or federal holiday on which federal offices are closed.

8. **Arbitration.** It is the intention of Executive and Company that the Federal Arbitration Act and the California Arbitration Act shall apply with respect to the arbitration of disputes, claims, and controversies pursuant to, arising under, or in connection with this Agreement. Except for injunctive proceedings against unauthorized disclosure of confidential information, any and all claims or controversies between Company or any Subsidiary and Executive, including but not limited to (a) those involving the construction or application of any of the terms, provisions, or conditions of this Agreement or the Policies; (b) all contract or tort claims of any kind; and (c) any claim based on any federal, state, or local law, statute, regulation, or ordinance, including claims for unlawful discrimination or harassment, shall be settled by arbitration in accordance with the then current Employment Dispute Resolution Rules of the American Arbitration Association or the Employment Arbitration Rules & Procedures of the Judicial Arbitration and Mediation Service ("JAMS"), as selected by Company or a Subsidiary. Judgment on the award rendered by the arbitrator(s) may be entered by any court having jurisdiction over Company and Executive. The location of the arbitration shall be San Francisco, California. Unless Company or a Subsidiary and Executive mutually agree otherwise, the arbitrator shall be a retired judge selected from a panel provided by the American Arbitration Association, or the Judicial Arbitration and Mediation Service (JAMS). Company, or a Subsidiary, if the Subsidiary is a party to the arbitration proceeding, shall pay the arbitrator's fees and costs. Executive shall pay for Executive's own costs and attorneys' fees, if any. Company and any Subsidiary that is a party to an arbitration proceeding shall pay for its own costs and attorneys' fees, if any. However, if any party prevails on a statutory claim which affords the prevailing party attorneys' fees, the arbitrator may award reasonable attorneys' fees and costs to the prevailing party.

EXECUTIVE UNDERSTANDS AND AGREES THAT THIS AGREEMENT TO ARBITRATE CONSTITUTES A WAIVER OF EXECUTIVE'S RIGHT TO A TRIAL BY JURY OF ANY MATTERS COVERED BY THIS AGREEMENT TO ARBITRATE.

9. **Severability.** In the event that any of the provisions of this Agreement or the Policies shall be held to be invalid or unenforceable in whole or in part, those provisions to the extent enforceable and all other provisions shall nevertheless continue to be valid and enforceable as though the invalid or unenforceable parts had not been included in this Agreement or the Policies. In the event that any provision relating to a time period of restriction shall be declared by a court of competent jurisdiction to exceed the maximum time period such court deems reasonable and enforceable, then the time period of restriction deemed reasonable and enforceable by the court shall become and shall thereafter be the maximum time period.

10. **Agreement Read and Understood.** Executive acknowledges that Executive has carefully read the terms of this Agreement, that Executive has had an opportunity to consult with an attorney or other representative of Executive's own choosing regarding this Agreement, that Executive understands the terms of this Agreement and that Executive is entering this Agreement of Executive's own free will.

11. **Complete Agreement, Modification.** This Agreement is the complete agreement between Executive and Company on the subjects contained in this Agreement. This Agreement supersedes and replaces all previous correspondence, promises, representations, and agreements, if any, either written or oral with respect to Executive's employment by Company or any Subsidiary and any matter covered by this Agreement. No provision of this Agreement may be modified, amended, or waived except by a written document signed both by Company and Executive.

12. **Governing Law.** This Agreement shall be construed and enforced according to the laws of the State of California.

13. **Assignability.** This Agreement, and the rights and obligations of Executive and Company under this Agreement, may not be assigned by Executive. Company may assign any of its rights and obligations under this Agreement to any successor or surviving corporation, limited liability company, or other entity resulting from a merger, consolidation, sale of assets, sale of stock, sale of membership interests, or other reorganization, upon condition that the assignee shall assume, either expressly or by operation of law, all of Company's obligations under this Agreement.

14. **Survival.** This Section 14 and the covenants and agreements contained in Sections 4 and 6 of this Agreement shall survive termination of this Agreement and Executive's employment.

15. **Notices.** Any notices or other communication required or permitted to be given under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested, or sent by next business day air courier service, or personally delivered to the party to

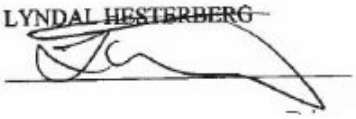
whom it is to be given at the address of such party set forth on the signature page of this Agreement (or to such other address as the party shall have furnished in writing in accordance with the provisions of this Section 15).

[SIGNATURES TO THE EMPLOYMENT AGREEMENT ARE FOUND ON THE FOLLOWING PAGE]

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

EXECUTIVE:

LYNDAL HESTERBERG



COMPANY:

ONCOCYTE CORPORATION

By: 

Ronald Andrews
Chief Executive Officer
OncoCyte Corporation
1010 Atlantic Avenue, Suite 102
Alameda, California 94501

[SIGNATURE PAGE TO THE EMPLOYMENT AGREEMENT]

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

EXECUTIVE:

LYNDAL HESTERBERG

COMPANY:

ONCOCYTE CORPORATION

By: _____

Ronald Andrews
Chief Executive Officer
OncoCyte Corporation
1010 Atlantic Avenue, Suite 102
Alameda, California 94501

[SIGNATURE PAGE TO THE EMPLOYMENT AGREEMENT]

Exhibit A

JOB DESCRIPTION

Job Title: Chief Scientific Officer

Reports to: Chief Executive Officer

FLSA Status: Exempt

SUMMARY OF ESSENTIAL FUNCTIONS:

a) Manage the scientific, research and technological operations of the company.
b) As a member of the senior management team, set research and scientific priorities (research, product development, clinical operations and regulatory affairs) such that they align with the company's goals and mission.
c) Stay updated on technological advances and industry trends; Recommend new research opportunities and/or technological ventures.
d) Serve public relations functions by representing scientific goals and interests at press conferences, meetings, conventions and shareholder events.
e) Develop studies that fulfill company goals for research, product development, CLIA and clinical validation, and clinical utility.
f) Develop product development, clinical operations and regulatory affairs strategies, including integration with CLIA laboratory and commercial operations.
g) Provide research and development, clinical and regulatory expertise across the organization, contributing to concept and study development and reimbursement and commercialization plans. Ensure that projects align with accepted diagnostic test development practice and guidelines, and that studies utilize recognized standards (i.e., CLSI), when applicable.
h) Oversee the research and development, clinical operations and regulatory affairs teams to ensure the completion of projects to timelines and budgets and the performance of risk assessments and implementation of corrective action plans for projects or tasks/deliverables at risk.
i) Ensure that critical study documents, including protocols and case report forms, are designed to achieve study goals and CLIA regulatory requirements.
j) Oversee the research and development, clinical operations and regulatory affairs functions and teams, ensuring that gaps are identified, assessed, that appropriate regulatory requirements are met and that quality systems meeting company needs are developed and implemented.
k) Develop and oversee budgets for the research and development, clinical operations and regulatory affairs function.

l) Lead cross-functional activities across all company projects, including those related to pipeline, research, product development, clinical operations, regulatory affairs and commercialization.
m) Coordinate with project managers so timely and accurate reports of project status are provided.

Exhibit B

EMPLOYEE CONFIDENTIAL INFORMATION AND INVENTIONS ASSIGNMENT AGREEMENT

In consideration of my employment or continued employment by ONCOCYTE CORPORATION its subsidiaries, parents, affiliates, successors and assigns (together "***Company***"), and the compensation paid to me now and during my employment with Company, I, Lyndal Hesterberg, hereby enter into this Employee Confidential Information and Invention Assignment Agreement (the "***Agreement***") and agree as follows:

1. CONFIDENTIAL INFORMATION PROTECTIONS.

1.1 Recognition of Company's Rights; Nondisclosure. I understand and acknowledge that my employment by Company creates a relationship of confidence and trust with respect to Company's Confidential Information (as defined below) and that Company has a protectable interest therein. At all times during and after my employment, I will hold in confidence and will not disclose, use, lecture upon, or publish any of Company's Confidential Information, except as such disclosure, use or publication may be required in connection with my work for Company, or unless an officer of Company expressly authorizes such disclosure. I will obtain Company's written approval before publishing or submitting for publication any material (written, oral, or otherwise) that discloses and/or incorporates any Confidential Information. I hereby assign to Company any rights I may have or acquire in such Confidential Information and recognize that all Confidential Information shall be the sole and exclusive property of Company and its assigns. I will take all reasonable precautions to prevent the inadvertent accidental disclosure of Confidential Information. Notwithstanding the foregoing, pursuant to 18 U.S.C. Section 1833(b), I shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that: (1) is made in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (2) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

1.2 Confidential Information. The term "***Confidential Information***" shall mean any and all confidential knowledge, data or information of Company. By way of illustration but not limitation, "***Confidential Information***" includes (a) trade secrets, inventions, algorithms, mask works, ideas, processes, formulas, software in source or object code, data, programs, other works of authorship, know-how, improvements, discoveries, developments, designs and techniques and any other proprietary technology and all Intellectual Property Rights (as defined below) therein (collectively, "***Inventions***"), and genetic and protein biomarkers of any and all kinds used in or related to Company diagnostic tests, products, or research, even if not patented or patentable; (b) information regarding research, development, new products, marketing and selling, business plans, budgets and unpublished financial statements, licenses, prices and costs, margins, discounts, credit terms, pricing and billing policies, quoting procedures, methods of obtaining business, forecasts, future plans and potential strategies, financial projections and business strategies, operational plans, financing and capital-raising plans, activities and agreements, internal services and operational manuals, methods of conducting Company business, suppliers and supplier information, and purchasing; (c) information regarding customers and potential customers of Company, including customer lists, names, representatives, their needs or desires with respect to the types of products or services offered by Company, proposals, bids, contracts and their contents and parties, the type and quantity of products and services provided or sought to be provided to customers and potential customers of Company and other non-public information relating to customers and potential customers; (d) information regarding any of Company's business partners and their services, including names, representatives, proposals, bids, contracts and their contents and parties, the type and quantity of products and services received by Company, and other non-public information relating to business partners; (e) information regarding personnel, employee lists, compensation, and employee skills; and (f) any other non-public information which a competitor of Company could use to the competitive disadvantage of Company. Notwithstanding the foregoing, it is understood that, at all such times, I am free to use information which was known to me prior to my employment with Company or which is generally known in the trade or industry through no breach of this Agreement or other act or omission by me, and I am free to discuss the terms and conditions of my employment with others to the extent expressly permitted by Section 7 of the National Labor Relations Act.

1.3 Third Party Information. I understand, in addition, that Company has received and in the future will receive from third parties their confidential and/or proprietary knowledge, data or information ("***Third Party Information***") subject to a duty on Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. During the term of my employment and thereafter, I will hold Third Party Information in confidence and will not disclose to anyone (other than Company personnel who need to know such information in connection with their work for Company) or use, except in connection with my work for Company, Third Party Information or unless expressly authorized by an officer of Company in writing.

1.4 Term of Nondisclosure Restrictions. I understand that Confidential Information and Third Party Information is

never to be used or disclosed by me, as provided in this Section 1. If a temporal limitation on my obligation not to use or disclose such information is required under applicable law, and the Agreement or its restriction(s) cannot otherwise be enforced, I agree and Company agrees that the two-year period after the date my employment ends will be the temporal limitation relevant to the contested restriction; ***provided, however,*** that this sentence will not apply to trade secrets protected without temporal limitation under applicable law.

1.5 No Improper Use of Information of Prior Employers and Others. During my employment by Company, I will not improperly use or disclose confidential information or trade secrets, if any, of any former employer or any other person to whom I have an obligation of confidentiality, and I will not bring onto the premises of Company any unpublished documents or any property belonging to any former employer or any other person to whom I have an obligation of confidentiality unless consented to in writing by that former employer or person.

2. ASSIGNMENTS OF INVENTIONS.

2.1 Definitions. As used in this Agreement, the term "***Intellectual Property Rights***" means all trade secrets, Copyrights, trademarks, mask work rights, patents and other intellectual property rights recognized by the laws of any jurisdiction or country; the term "***Copyright***" means the exclusive legal right to reproduce, perform, display, distribute and make derivative works of a work of authorship (as a literary, musical, or artistic work) recognized by the laws of any jurisdiction or country; and the term "***Moral Rights***" means all paternity, integrity, disclosure, withdrawal, special and any other similar rights recognized by the laws of any jurisdiction or country.

2.2 Excluded Inventions and Other Inventions. Attached hereto as **Exhibit A** is a list describing all existing Inventions, if any, (a) that are owned by me or in which I have an interest and were made or acquired by me prior to my date of first employment by Company, (b) that may relate to Company's business or actual or demonstrably anticipated research or development, and (c) that are not to be assigned to Company ("***Excluded Inventions***"). If no such list is attached, I represent and agree that it is because I have no Excluded Inventions. For purposes of this Agreement, "***Other Inventions***" means Inventions in which I have or may have an interest, as of the commencement of my employment or thereafter, other than Company Inventions (as defined below) and Excluded Inventions. I acknowledge and agree that if I use any Excluded Inventions or any Other Inventions in the scope of my employment, or if I include any Excluded Inventions or Other Inventions in any product or service of Company, or if my rights in any Excluded Inventions or Other Inventions may block or interfere with, or may otherwise be required for, the exercise by Company of any rights assigned to Company under this Agreement, I will immediately so notify Company in writing. Unless Company and I agree otherwise in writing as to particular Excluded Inventions or Other Inventions, I hereby grant to Company, in such circumstances (whether or not I give Company notice as required above), a non-exclusive, perpetual, transferable, fully-paid and royalty-free, irrevocable and worldwide license, with rights to sublicense through multiple levels of sublicensees, to reproduce, make derivative works of, distribute, publicly perform, and publicly display in any form or medium, whether now known or later developed, make, have made, use, sell, import, offer for sale, and exercise any and all present or future rights in, such Excluded Inventions and Other Inventions. To the extent that any third parties have rights in any such Other Inventions, I hereby represent and warrant that such third party or parties have validly and irrevocably granted to me the right to grant the license stated above.

2.3 Assignment of Company Inventions. Inventions assigned to Company or to a third party as directed by Company pursuant to Section 2.6 are referred to in this Agreement as "***Company Inventions.***" Subject to Section 2.4 and except for Excluded Inventions set forth in **Exhibit A** and Other Inventions, I hereby assign to Company all my right, title, and interest in and to any and all Inventions (and all Intellectual Property Rights with respect thereto) made, conceived, reduced to practice, or learned by me, either alone or with others, during the period of my employment by Company. To the extent required by applicable Copyright laws, I agree to assign in the future (when any copyrightable Inventions are first fixed in a tangible medium of expression) my Copyright rights in and to such Inventions. Any assignment of Company Inventions (and all Intellectual Property Rights with respect thereto) hereunder includes an assignment of all Moral Rights. To the extent such Moral Rights cannot be assigned to Company and to the extent the following is allowed by the laws in any country where Moral Rights exist, I hereby unconditionally and irrevocably waive the enforcement of such Moral Rights, and all claims and causes of action of any kind against Company or related to Company's customers, with respect to such rights. I further acknowledge and agree that neither my successors-in-interest nor legal heirs retain any Moral Rights in any Company Inventions (and any Intellectual Property Rights with respect thereto).

2.4 Unassigned or Nonassignable Inventions. I recognize that this Agreement will not be deemed to require assignment of any Invention that is covered under California Labor Code section 2870(a) (the "***Specific Inventions Law***") except for those Inventions that are covered by a contract between Company and the United States or any of its agencies that require full title to such patent or Invention to be in the United States.

2.5 Obligation to Keep Company Informed. During the period of my employment, I will promptly and fully disclose to Company in writing all Inventions authored, conceived, or reduced to practice by me, either alone or jointly with others. At the time of each such disclosure, I will advise Company in writing of any Inventions that I believe fully qualify for protection under the provisions of the Specific Inventions Law; and I will at that time provide to Company in writing all evidence necessary to substantiate that belief. Company will keep in confidence and will not use for any purpose or disclose

to third parties without my consent any confidential information disclosed in writing to Company pursuant to this Agreement relating to Inventions that qualify fully for protection under the Specific Inventions Law. I will preserve the confidentiality of any Invention that does not fully qualify for protection under the Specific Inventions Law.

2.6 Government or Third Party. I agree that, as directed by Company, I will assign to a third party, including without limitation the United States, all my right, title, and interest in and to any particular Company Invention.

2.7 Ownership of Work Product. I agree that Company will exclusively own all work product that is made by me (solely or jointly with others) within the scope of my employment, and I hereby irrevocably and unconditionally assign to Company all right, title and interest worldwide in and to such work product. I acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of my employment and which are protectable by Copyright are "works made for hire," pursuant to United States Copyright Act (17 U.S.C., Section 101). I understand and agree that I have no right to publish on, submit for publishing, or use for any publication any work product protected by this Section, except as necessary to perform services for Company.

2.8 Enforcement of Intellectual Property Rights and Assistance. I will assist Company in every proper way to obtain, and from time to time enforce, United States and foreign Intellectual Property Rights and Moral Rights relating to Company Inventions in any and all countries. To that end I will execute, verify and deliver such documents and perform such other acts (including appearances as a witness) as Company may reasonably request for use in applying for, obtaining, perfecting, evidencing, sustaining and enforcing such Intellectual Property Rights and the assignment thereof. In addition, I will execute, verify and deliver assignments of such Intellectual Property Rights to Company or its designee, including the United States or any third party designated by Company. My obligation to assist Company with respect to Intellectual Property Rights relating to such Company Inventions in any and all countries will continue beyond the termination of my employment, but Company will compensate me at a reasonable rate after my termination for the time actually spent by me at Company's request on such assistance. In the event Company is unable for any reason, after reasonable effort, to secure my signature on any document needed in connection with the actions specified in the preceding paragraph, I hereby irrevocably designate and appoint Company and its duly authorized officers and agents as my agent and attorney in fact, which appointment is coupled with an interest, to act for and on my behalf to execute, verify and file any such documents and to do all other lawfully permitted acts to further the purposes of the preceding paragraph with the same legal force and effect as if executed by me. I hereby waive and quitclaim to Company any and all claims, of any nature whatsoever, which I now or may hereafter have for infringement of any Intellectual Property Rights assigned under this Agreement to Company.

2.9 Incorporation of Software Code. I agree that I will not incorporate into any Company software or otherwise deliver to Company any software code licensed under the GNU General Public License or Lesser General Public License or any other license that, by its terms, requires or conditions the use or distribution of such code on the disclosure, licensing, or distribution of any source code owned or licensed by Company except in strict compliance with Company's policies regarding the use of such software.

3. RECORDS. I agree to keep and maintain adequate and current records (in the form of notes, sketches, drawings and in any other form that is required by Company) of all Confidential Information developed by me and all Company Inventions made by me during the period of my employment at Company, which records will be available to and remain the sole property of Company at all times.

4. DUTY OF LOYALTY DURING EMPLOYMENT. I agree that during the period of my employment by Company, I will not, without Company's express written consent, directly or indirectly engage in any employment or business activity which is directly or indirectly competitive with, or would otherwise conflict with, my employment by Company.

5. NO SOLICITATION OF EMPLOYEES, CONSULTANTS OR CONTRACTORS. I agree that during the period of my employment and for the one year period after the date my employment ends for any reason, including but not limited to voluntary termination by me or involuntary termination by Company, I will not, as an officer, director, employee, consultant, owner, partner, or in any other capacity, either directly or through others, except on behalf of Company, solicit, induce, encourage, or participate in soliciting, inducing or encouraging any person known to me to be an employee, consultant, or independent contractor of Company to terminate his or her relationship with Company, even if I did not initiate the discussion or seek out the contact.

6. REASONABLENESS OF RESTRICTIONS.

6.1 I agree that I have read this entire Agreement and understand it. I agree that this Agreement does not prevent me from earning a living or pursuing my career. I agree that the restrictions contained in this Agreement are reasonable, proper, and necessitated by Company's legitimate business interests. I represent and agree that I am entering into this Agreement freely and with knowledge of its contents with the intent to be bound by the Agreement and the restrictions contained in it.

6.2 In the event that a court finds this Agreement, or any of its restrictions, to be ambiguous, unenforceable, or invalid, I and Company agree that the court will read the Agreement as a whole and interpret the restriction(s) at issue to be enforceable and valid to the maximum extent allowed by law.

6.3 If the court declines to enforce this Agreement in the manner provided in subsection 6.2, Company and I agree that this Agreement will be automatically modified to provide

Company with the maximum protection of its business interests allowed by law and I agree to be bound by this Agreement as modified.

7. No Conflicting Agreement or Obligation. I represent that my performance of all the terms of this Agreement and as an employee of Company does not and will not breach any agreement to keep in confidence information acquired by me in confidence or in trust prior to my employment by Company. I have not entered into, and I agree I will not enter into, any agreement either written or oral in conflict with this Agreement.

8. Return of Company Property. When I leave the employ of Company, I will deliver to Company any and all drawings, notes, memoranda, specifications, devices, formulas and documents, together with all copies thereof, and any other material containing or disclosing any Company Inventions, Third Party Information or Confidential Information of Company. I agree that I will not copy, delete, or alter any information contained upon my Company computer or Company equipment before I return it to Company. In addition, if I have used any personal computer, server, or e-mail system to receive, store, review, prepare or transmit any Company information, including but not limited to, Confidential Information, I agree to provide Company with a computer-useable copy of all such Confidential Information and then permanently delete and expunge such Confidential Information from those systems; and I agree to provide Company access to my system as reasonably requested to verify that the necessary copying and/or deletion is completed. I further agree that any property situated on Company's premises and owned by Company, including disks and other storage media, filing cabinets or other work areas, is subject to inspection by Company's personnel at any time with or without notice. Prior to leaving, I will cooperate with Company in attending an exit interview and completing and signing Company's termination statement if required to do so by Company.

9. Legal and Equitable Remedies.

9.1 I agree that it may be impossible to assess the damages caused by my violation of this Agreement or any of its terms. I agree that any threatened or actual violation of this Agreement or any of its terms will constitute immediate and irreparable injury to Company, and Company will have the right to enforce this Agreement and any of its provisions by injunction, specific performance or other equitable relief, without bond and without prejudice to any other rights and remedies that Company may have for a breach or threatened breach of this Agreement.

9.2 In the event Company enforces this Agreement through a court order, I agree that the restrictions of Section 5 will remain in effect for a period of 12 months from the effective date of the Order enforcing the Agreement.

10. Notices. Any notices required or permitted under this Agreement will be given to Company at its headquarters location at the time notice is given, labeled "Attention Chief Executive Officer," and to me at my address as listed on Company payroll, or at such other address as Company or I may designate by written notice to the other. Notice will be effective upon receipt or refusal of delivery. If delivered by certified or registered mail, notice will be considered to have been given five business days after it was mailed, as evidenced by the postmark. If delivered by courier or express mail service, notice will be considered to have been given on the delivery date reflected by the courier or express mail service receipt.

11. Publication of This Agreement to Subsequent Employer or Business Associates of Employee.

11.1 If I am offered employment or the opportunity to enter into any business venture as owner, partner, consultant or other capacity while the restrictions described in Section 5 of this Agreement are in effect I agree to inform my potential employer, partner, co-owner and/or others involved in managing the business with which I have an opportunity to be associated of my obligations under this Agreement and also agree to provide such person or persons with a copy of this Agreement.

11.2 I agree to inform Company of all employment and business ventures which I enter into while the restrictions described in Section 5 of this Agreement are in effect and I also authorize Company to provide copies of this Agreement to my employer, partner, co-owner and/or others involved in managing the business with which I am employed or associated and to make such persons aware of my obligations under this Agreement.

12. General Provisions.

12.1 Governing Law; Consent to Personal Jurisdiction. This Agreement will be governed by and construed according to the laws of the State of California as such laws are applied to agreements entered into and to be performed entirely within California between residents of California. I hereby expressly consent to the personal jurisdiction and venue of the state and federal courts located in California for any lawsuit filed there against me by Company arising from or related to this Agreement.

12.2 Severability. In case any one or more of the provisions, subsections, or sentences contained in this Agreement will, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect the other provisions of this Agreement, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement. If moreover, any one or more of the provisions contained in this Agreement will for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it will be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it will then appear.

12.3 Successors and Assigns. This Agreement is for my benefit and the benefit of Company, its successors, assigns,

parent corporations, Subsidiaries, affiliates, and purchasers, and will be binding upon my heirs, executors, administrators and other legal representatives.

12.4 Survival. This Agreement shall survive the termination of my employment, regardless of the reason, and the assignment of this Agreement by Company to any successor in interest or other assignee.

12.5 Employment At-Will. I agree and understand that nothing in this Agreement will change my at-will employment status or confer any right with respect to continuation of employment by Company, nor will it interfere in any way with my right or Company's right to terminate my employment at any time, with or without cause or advance notice.

12.6 Waiver. No waiver by Company of any breach of this Agreement will be a waiver of any preceding or succeeding breach. No waiver by Company of any right under this Agreement will be construed as a waiver of any other right. Company will not be required to give notice to enforce strict adherence to all terms of this Agreement.

12.7 Export. I agree not to export, reexport, or transfer, directly or indirectly, any U.S. technical data acquired from Company or any products utilizing such data, in violation of the United States export laws or regulations.

12.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument. This Agreement may also be executed and delivered by facsimile signature, PDF or any electronic signature complying with the U.S. federal ESIGN Act of 2000 (e.g., www.docusign.com).

12.9 Advice of Counsel. I ACKNOWLEDGE THAT, IN EXECUTING THIS AGREEMENT, I HAVE HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL, AND I HAVE READ AND UNDERSTOOD ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT. THIS AGREEMENT WILL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION OF THIS AGREEMENT.

This Agreement shall be effective as of November 1, 2016.

EMPLOYEE:

I HAVE READ, UNDERSTAND, AND ACCEPT THIS AGREEMENT AND HAVE BEEN GIVEN THE OPPORTUNITY TO REVIEW IT WITH INDEPENDENT LEGAL COUNSEL.

(Signature)

Lyndal Hesterberg
Name

Date

Address:

COMPANY:

ACCEPTED AND AGREED

ONCOCYTE CORPORATION

By: _____

Name: Ronald Andrews
Title: Chief Executive Officer

Address: 1010 Atlantic Avenue, Suite 102
Alameda, CA 94501

EXHIBIT A
TO THE
EMPLOYEE CONFIDENTIAL INFORMATION AND INVENTIONS ASSIGNMENT AGREEMENT

EXCLUDED INVENTIONS

TO: **OncoCyte Corporation**

FROM: **Lyndal Hesterberg**

DATE: 27 oct 19

1. **Excluded Inventions Disclosure**. Except as listed in Section 2 below, the following is a complete list of all Excluded Inventions:

☐ No Excluded Inventions.

☒ See below:

☐ Additional sheets attached.

2. Due to a prior confidentiality agreement, I cannot complete the disclosure under Section 1 above with respect to the Excluded Inventions generally listed below, the intellectual property rights and duty of confidentiality with respect to which I owe to the following party(ies):

	Excluded Invention	Party(ies)	Relationship
1.	Telomeet Assay	Telomere Dx	Former Consultant
2.	PreE Biomarkers	Caementia Bio/ Progenity	former Consultant
3.	Appendicitis Biomarkers	Venaxis	former Consultant
4.	Protein Corona	Seer, Inc	former Consultant

☐ Additional sheets attached.

3. Limited Exclusion Notification.

This is to notify you in accordance with Section 2872 of the California Labor Code that the foregoing Agreement between you and Company does not require you to assign or offer to assign to Company any Invention that you develop entirely on your own time without using Company's equipment, supplies, facilities or trade secret information, except for those Inventions that either:

a. Relate at the time of conception or reduction to practice to Company's business, or actual or demonstrably anticipated research or development; or

b. Result from any work performed by you for Company.

To the extent a provision in the foregoing Agreement purports to require you to assign an Invention otherwise excluded from the preceding paragraph, the provision is against the public policy of this state and is unenforceable.

This limited exclusion does not apply to any patent or Invention covered by a contract between Company and the United States or any of its agencies requiring full title to such patent or Invention to be in the United States.

EMPLOYMENT AGREEMENT

EMPLOYMENT AGREEMENT ("Agreement") is made May 22, 2019 ("Effective Date"), by and between OncoCyte, Corporation (the "Company"), a California corporation and Padma Sundar ("Executive").

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. Engagement; Position and Duties.

(a) Position and Duties. The Company agrees to employ Executive in the position of Senior Vice President, Marketing and Marketing Access to perform the duties as outlined on Exhibit A and as the Chief Operating Officer or Chief Executive Officer or the Board of Directors of the Company (the "Board of Directors") may from time to time direct or require. Executive shall report to the Chief Operating Officer. Executive shall devote best efforts, skills and abilities, on a full-time basis, exclusively to the Company's business. Executive covenants and agrees to faithfully adhere to and fulfill such policies as are established from time to time by the Board of Directors or the Company ("Policies").

(b) Performance of Services for Subsidiaries. Executive acknowledges and agrees that although OncoCyte does not have any subsidiaries as of the Effective Date, it is possible that OncoCyte will organize or acquire one or more subsidiary companies in the future, which may be wholly-owned or partially owned by OncoCyte (each a "Subsidiary"). In addition to the performance of services for Company, Executive shall, to the extent so required by Company, also perform services for one or more members of a consolidated group of which Company is a part ("Subsidiary"), provided that such services are consistent with the kind of services Executive performs or may be required to perform for Company under this Agreement. If Executive performs any services for any Subsidiary, Executive shall not be entitled to receive any compensation or remuneration in addition to or in lieu of the compensation and remuneration provided under this Agreement on account of such services for the Subsidiary. The Policies will govern Executive's employment by Company and any Subsidiaries for which Executive is asked to provide Services. In addition, Executive covenants and agrees that Executive will faithfully adhere to and fulfill such additional policies as may be established from time to time by the board of directors of any Subsidiary for which Executive performs services, to the extent that such policies and procedures differ from or are in addition to the Policies adopted by Company.

(c) No Conflicting Obligations. Executive represents and warrants to Company that Executive is under no obligations or commitments, whether contractual or otherwise, that are inconsistent with Executive's obligations under this Agreement or that would prohibit Executive, contractually or otherwise, from performing Executive's duties as under this Agreement and the Policies.

(d) No Unauthorized Use of Third Party Intellectual Property. Executive represents and warrants to Company that Executive will not use or disclose, in connection with Executive's employment by Company or any Subsidiary, any patents, trade secrets, confidential

information, or other proprietary information or intellectual property as to which any other person has any right, title or interest, except to the extent that Company or a Subsidiary holds a valid license or other written permission for such use from the owner(s) thereof. Executive represents and warrants to Company that Executive has returned all property and confidential information belonging to any prior employer.

2. Compensation

(a) Salary. During the term of this Agreement, Company shall pay to the Executive a salary of $260,000 annually. Executive's salary shall be paid in equal semi-monthly installments, consistent with Company's regular salary payment practices. Executive's salary may be increased from time-to-time by Company, in Company's sole and absolute discretion, without affecting this Agreement.

(b) Bonus. Executive may be eligible for an annual bonus of up to 35% of Executive's annual salary, as may be approved by the Board of Directors in its discretion, based on Executive's achievement of predetermined Company and individual objectives set by the Board of Directors, or the Compensation Committee of the Board of Directors, from time to time. Executive also agrees that the Board of Directors and Company are not obligated to adopt any bonus plan, to maintain in effect any bonus plan that may now be in effect or that may be adopted during the term of Executive's employment, or to pay Executive a bonus unless a bonus is earned under the terms and conditions of any bonus plan adopted by Company provided, that unless otherwise provided in a bonus plan or award or this Agreement, a bonus shall not be earned until paid and shall not be paid unless Executive remains an employee of Company on the date of payment..

(c) ***Stock Options.*** The Company shall grant Executive options to purchase 180,000 shares of Company common stock, no par value, under the Company's 2018 Equity Incentive Plan (the "Plan"). The exercise price of the options shall be the fair market value of a share of Company common stock on the date of grant determined in accordance with the Plan. The date of grant of the options shall be the date on which Executive's employment by the Company commences. Executive shall execute a stock option agreement provided by the Company consistent with the terms of the option grant and the Plan. The options shall vest and thereby become exercisable as follows: twenty-five percent of the options shall vest upon Executive's completion of one year of continuous service as an employee of Company or of a Subsidiary, and the balance of the options shall vest in 36 equal monthly installments, commencing on the first anniversary date of the grant, based upon Executive's continued service as an employee of the Company or of a Subsidiary. Except to the extent that provisions of the Plan relating to termination of "continuous service" as an employee apply, to the extent not exercised, the options shall expire ten years from the effective date of grant. The options shall be incentive stock options to the extent permitted by Section 422 of the Internal Revenue Code.

(d) Expense Reimbursements. Company or a Subsidiary shall reimburse Executive for reasonable travel and other business expenses (but not expenses of commuting to a primary workplace) incurred by Executive in the performance of Executive's duties under this Agreement, subject to the Policies and procedures in effect from time to time, and provided that Executive submits supporting vouchers.

(e) Benefit Plans. Executive may be eligible (to the extent Executive qualifies) to participate in certain retirement, pension, life, health, accident and disability insurance, equity incentive plan or other similar employee benefit plans, which may be adopted by Company for its executive officers or other employees. Company and the Subsidiaries have the right, at any time and without any amendment of this Agreement, and without prior notice to or consent from Executive, to adopt, amend, change, or terminate any such benefit plans that may now be in effect or that may be adopted in the future, in each case without any further financial obligation to Executive; provided that such unilateral change does apply to Executive in a manner different than other Company executives or employees of a comparable executive level, except for changes required by applicable federal, state, or local law, or implemented in response to any change of federal, state or local law or regulation. Any benefits to which Executive may be entitled under any benefit plan shall be governed by the terms and conditions of the applicable benefit plan, and any related plan documents, as in effect from time to time. If Executive receives any grant of stock options or stock or stock related equity awards ("Awards") under any stock option plan, stock purchase plan, or other equity incentive plan of Company (an "Equity Plan"), the terms and conditions of the Award, and Executive's rights with respect to the Award, shall be governed by (i) the terms of the Equity Plan, as the same may be amended from time to time, and (ii) the terms and conditions of any stock option agreement, stock purchase agreement, or other agreement that Executive may sign or be required to sign with respect to any Award.

(f) Vacation; Sick Leave. Executive shall be entitled to 20 paid time off days (accrued on a biweekly pay period basis and capped at 1.5 times the yearly accrual), 24 hours of annual sick leave, without reduction in compensation, during each calendar year, or as may be provided by the Policies. Executive's vacation shall be taken at such time as is consistent with the needs and Policies of Company and its Subsidiaries. All vacation days and sick leave days shall accrue annually based upon days of service. Executive's right to leave from work due to illness is subject to the Policies and the provisions of this Agreement governing termination due to disability, sickness or illness. The Policies governing the disposition of unused vacation days and sick leave days remaining at the end of Company's fiscal year shall govern whether unused vacation days or sick leave days will be paid, lost, or carried over into subsequent fiscal years.

3. Competitive Activities. During the term of Executive's employment, and for twenty-four months thereafter, Executive shall not, for Executive or any third party, directly or indirectly employ, solicit for employment or recommend for employment any person employed by Company or any Subsidiary. During the term of Executive's employment, Executive shall not, directly or indirectly as an employee, contractor, officer, director, member, partner, agent, or equity owner, engage in any activity or business that competes or could reasonably be expected to compete with the business of Company or any Subsidiary. Executive acknowledges that there is a substantial

likelihood that the activities described in this Section would (a) involve the unauthorized use or disclosure of Company's or a Subsidiary's Confidential Information and that use or disclosure would be extremely difficult to detect, and (b) result in substantial competitive harm to the business of Company or a Subsidiary. Executive has accepted the limitations of this Section as a reasonably practicable and unrestrictive means of preventing such use or disclosure of Confidential Information and preventing such competitive harm.

4. Inventions/Intellectual Property/Confidential Information. Employee acknowledges the execution and delivery to Company of an Employee Confidential Information and Inventions Assignment Agreement" (the "Confidentiality and IP Agreement"), attached hereto as **Exhibit B**.

5. Termination of Employment. Executive understands and agrees that Executive's employment has no specific term. This Agreement, and the employment relationship, are "at will" and may be terminated by Executive or by Company (and the employment of Executive by any Subsidiary by be terminated by the Subsidiary) with or without cause at any time by notice given orally or in writing. Except as otherwise agreed in writing or as otherwise provided in this Agreement, upon termination of Executive's employment, Company and the Subsidiaries shall have no further obligation to Executive, by way of compensation or otherwise, as expressly provided in this Agreement or in any separate employment agreement that might then exist between Executive and a Subsidiary.

(a) Payments Due Upon Termination of Employment. Upon termination of Executive's employment with Company at any time and for any reason, in the event of the termination of Executive's employment by Company for Cause, or termination of Executive's employment as a result of death, Disability, or resignation, Executive will be entitled to receive only the severance benefits set forth below, and Executive will not be entitled to any other compensation, award, or damages with respect to Executive's employment or termination of employment.

(i) Termination for Cause, Death, Disability, or Resignation. In the event of the termination of Executive's employment by Company for Cause, or termination of Executive's employment as a result of death, Disability, or resignation, Executive will be entitled to receive payment for all accrued but unpaid salary actually earned prior to or as of the date of termination of Executive's employment, and vacation or paid time off accrued as of the date of termination of Executive's employment. Executive will not be entitled to any cash severance benefits or additional vesting of any stock options or other equity or cash awards.

(ii) Termination Without Cause. In the event of termination of Executive's employment by Company without Cause, Executive will be entitled to (A) the benefits set forth in paragraph (a)(i) of this Section; (B) (1) three months' base salary if terminated within the first twelve (12) months of employment, or (2) six (6) months' base salary if terminated after twelve (12) months of employment, either of which may be paid in a lump sum or, at the election of OncoCyte, in installments consistent with the payment of Employee's

salary while employed by OncoCyte, subject to such payroll deductions and withholdings as are required by law; (C) payment of such portion of any bonus earned through the actual attainment of such objective performance goals as may have been set by the Compensation Committee or Board of Directors for the earning of a bonus for the year in which Executive was terminated without Cause, subject to such payroll deductions and withholdings as are required by law; and (D) payment, for a period of six (6) months, of any health insurance benefits that Executive was receiving at the time of termination of Executive's employment under a Company employee health insurance plan subject to COBRA. This paragraph shall not apply to (x) termination of Executive's employment by a Subsidiary if Executive remains employed by Company, or (y) termination of Executive's employment by Company if Executive remains employed by a Subsidiary.

(iii) Change of Control. If Company (or any successor in interest to Company that has assumed Company's obligation under this Agreement) terminates Executive's employment without Cause or Executive resigns for Good Reason within twelve (12) months following a Change in Control, Executive will be entitled to the benefits set forth in paragraph (a)(i) and (a)(ii) of this Section.. This paragraph shall not apply to (x) termination of Executive's employment by a Subsidiary if Executive remains employed by Company or a successor in interest, or (y) termination of Executive's employment by Company or a successor in interest if Executive remains employed by a Subsidiary.

(b) Release. The Company's obligation to make such payments under paragraphs (a)(ii) and (a)(iii) of this Section and provide any other such benefits contemplated herein shall be contingent upon:

(i) Executive's execution of a release in a form reasonably acceptable to the Company (the "Release"), which Release must be signed and any applicable revocation period with respect thereto must have expired by the 30th day following Executive's termination of employment. The Release will not waive any of Executive's rights, or obligations of the Company or its successor in interest and the Subsidiaries, regarding: (1) any right to indemnification and/or contribution, advancement or payment of related expenses Executive may have pursuant to the Company's Bylaws, Articles of Incorporation, under any written indemnification or other agreement between the parties, and/or under applicable law; (2) any rights that Executive may have to insurance coverage under any directors and officers liability insurance, other insurance policies of the Company, COBRA or any similar state law; (3) any claims for worker's compensation, state disability or unemployment insurance benefits, or any other claims that cannot be released as a matter of applicable law; (4) rights to any vested benefits under any stock, compensation or other employee benefit plan of the Company; (5) any rights Executive may have as an existing shareholder of the Company; and (6) any claims arising after the effective date of the Release. Nothing in the Release or any other agreement between Executive and the Company will prohibit or

prevent Executive from providing truthful testimony or otherwise responding accurately and fully to any question, inquiry or request for information or documents when required by legal process, subpoena, notice, court order or law (including, without limitation, in any criminal, civil, or regulatory proceeding or investigation), or as necessary in any action for enforcement or claimed breach of this Agreement or any other legal dispute with the Company. If the Release has been signed and any applicable revocation period has expired prior to the 30th day following Executive's termination of employment, then the severance payments above may be made on such earlier date; provided, however, that if the 30th day following Executive's termination of employment occurs in the calendar year following the year of Executive's termination date, then the payments shall not be made earlier than January 1 of such subsequent calendar year; and

(ii) Executive's tendering a written resignation as a director, if serving as a director of Company or any Subsidiary, as provided in Section 7.

(c) Section 280G of the Code.

(i) Notwithstanding anything in this Agreement to the contrary, if any payment, distribution, or other benefit provided by the Company to or for the benefit of Executive, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise (collectively, the "Payments"), (x) constitute a "parachute payment" within the meaning of Section 280G of the Code, and (y) but for this Section 5(c) would be subject to the excise tax imposed by Section 4999 of the Code or any similar or successor provision thereto (the "Excise Tax"), then the Payments shall be either: (A) delivered in full pursuant to the terms of this Agreement, or (B) delivered to such lesser extent as would result in no portion of the payment being subject to the Excise Tax, as determined in accordance with Section 5(b).

(ii) The determination of whether Section 5(c)(i)(A) or Section 5(c)(i)(B) shall be given effect shall be made by the Company on the basis of which of such clauses results in the receipt by Executive of the greater Net After-Tax Receipt (as defined herein) of the aggregate Payments. The term "Net After-Tax Receipt" shall mean the present value (as determined in accordance with Section 280G of the Code) of the payments net of all applicable federal, state and local income, employment, and other applicable taxes and the Excise Tax.

(iii) If Section 5(c)(i)(B) is given effect, the reduction shall be accomplished in accordance with Section 409A of the Code and the following: first by reducing, on a pro rata basis, cash Payments that are exempt from Section 409A of the Code; second by reducing, on a pro rata basis, other cash Payments; and third by forfeiting any equity-based awards that vest and become payable, starting with the most recent equity-based awards that vest, to the extent necessary to accomplish such reduction.

(iv) Unless the Company and Executive otherwise agree in writing, any determination required under this Section 5(c) shall be made by the Company's independent accountants or compensation consultants (the "Third Party"), and all such determinations shall be conclusive, final and binding on the parties hereto. The Company and Executive shall furnish to the Third Party such information and documents as the Third Party may reasonably request in order to make a determination under this Section 5(c). The Company shall bear all fees and costs of the Third Party with respect to all determinations under or contemplated by this Section 5(c).

(d) Definitions. For purposes of this Section, the following definitions shall apply:

(i) "Affiliated Group" means (A) a Person and one or more other Persons in control of, controlled by, or under common control with such Person; and (B) two or more Persons who, by written agreement among them, act in concert to acquire Voting Securities entitling them to elect a majority of the directors of Company.

(ii) "Cause" shall mean a termination of Executive's employment based upon a finding by a majority of the Board of Directors of the Company or its successor, acting in good faith and based on its reasonable belief at the time, that Executive (a) has refused to perform the explicitly stated or reasonably assigned, lawful, and material duties required by Executive's position (other than by reason of a disability or analogous condition); (b) has committed or engaged in a material act of theft, embezzlement, dishonesty or fraud, a breach of confidentiality, an unauthorized disclosure or use of inside information, customer lists, trade secrets or other confidential information; (c) has breached a material fiduciary duty, or willfully and materially violated any other duty, law, rule, or regulation relating to the performance of Executive's duties to the Company or material policy of the Company or its successor; (d) has been convicted of, or pled guilty or nolo contendere to, misdemeanor involving moral turpitude or a felony; (e) has willfully and materially breached any of the provisions of any agreement with the Company or its successor which causes material injury to the Company; (f) has willfully engaged in unfair competition with, or otherwise acted intentionally in a manner materially injurious to the reputation, business or assets of, the Company or its successor; (g) has improperly induced a vendor or customer to break or terminate any material contract with the Company or its successor or induced a principal for whom the Company or its successor acts as agent to terminate such agency relationship; or (h) has obtained, in connection with any transaction in which Company, any Subsidiary, or any of Company's affiliates is a party, a material undisclosed financial benefit for Executive or for any member of Executive's immediate family or for any corporation, partnership, limited liability company, or trust in which Executive or any member of Executive's immediate family owns a material financial interest. For purposes of this Agreement, no act or failure to act on Executive's part will be considered "willful" unless it is done, or omitted to be done, by Executive intentionally, not in good faith or without reasonable belief that the action or omission was in the best interest of the Company.

(iii) "Change of Control" means (A) the acquisition of Voting Securities of Company by a Person or an Affiliated Group entitling the holder thereof to elect a majority of the directors of Company; provided, that an increase in the amount of Voting Securities held by a Person or Affiliated Group who on the date of this Agreement owned beneficially owned (as defined in Section 13(d) of the Securities Exchange Act of 1934, as amended, and the regulations thereunder) more than 10% of the Voting Securities shall not constitute a Change of Control; and provided, further, that an acquisition of Voting Securities by one or more Persons acting as an underwriter in connection with a sale or distribution of such Voting Securities shall not constitute a Change of Control under this clause (A); (B) the sale of all or substantially all of the assets of Company; or (C) a merger or consolidation of Company with or into another corporation or entity in which the stockholders of Company immediately before such merger or consolidation do not own, in the aggregate, Voting Securities of the surviving corporation or entity (or the ultimate parent of the surviving corporation or entity) entitling them, in the aggregate (and without regard to whether they constitute an Affiliated Group) to elect a majority of the directors or persons holding similar powers of the surviving corporation or entity (or the ultimate parent of the surviving corporation or entity); provided, however, that in no event shall any transaction described in clauses (A), (B) or (C) be a Change of Control if all of the Persons acquiring Voting Securities or assets of Company or merging or consolidating with Company are one or more Subsidiaries.

(iv) "Disability" shall mean Executive's inability to perform the essential functions of Executive's job responsibilities for a period of one hundred eighty (180) days in the aggregate in any twelve (12) month period.

(v) "Good Reason" shall mean the occurrence of any of the following events or circumstances without Executive's written consent: (i) a material diminution in Executive's base salary; (ii) a material diminution in Executive's authority, duties or responsibility (for example, if Executive is required to report to anyone other than a Chief Executive Officer or the Board of Directors of the Company (or a Subsidiary) or the successor of the Company).; (iii) a material change in the principal geographic location at which Executive performs services (a change in location of Company's office at which Executive will primarily work will be considered material only if it increases Executive's current one-way commute by more than fifty (50) miles); (iv) any requirement that Executive engage in any illegal conduct; (v) a material breach by the Company of this Agreement; or (vi) Executive's primary role being moved to a Subsidiary, unless Executive reasonably agrees to the move of the primary role, which agreement shall not be unreasonably withheld.

(vi) "Person" means any natural person or any corporation, partnership, limited liability company, trust, unincorporated business association, or other entity.

(vii) "Voting Securities" means shares of capital stock or other equity securities entitling the holder thereof to regularly vote for the election of directors (or for person performing a similar function if the issuer is not a corporation), but does not include the power to vote upon the happening of some condition or event which has not yet occurred.

6. Turnover of Property and Documents on Termination. Executive agrees that on or before termination of Executive's employment, Executive will return to Company, and all Subsidiaries, all equipment and other property belonging to Company and the Subsidiaries, and all originals and copies of confidential information (in any and all media and formats, and including any document or other item containing Confidential Information as defined in Exhibit B) in Executive's possession or control, and all of the following (in any and all media and formats, and whether or not constituting or containing confidential information) in Executive's possession or control: (a) lists and sources of customers; (b) proposals or drafts of proposals for any research grant, research or development project or program, marketing plan, licensing arrangement, or other arrangement with any third party; (c) reports, notations of the Executive, laboratory notes, specifications, and drawings pertaining to the research, development, products, patents, and technology of Company and any Subsidiaries; (d) any and all intellectual property developed by Executive during the course of employment; and (e) the manual and memoranda related to the Policies. To the extent there is a conflict between this Section 6 and the Confidentiality and IP Agreement executed by the Executive, the Confidentiality and IP Agreement provisions control.

7. Resignation as a Director on Termination of Employment. If Executive's employment by Company is terminated for any reason or for no reason, whether by way of resignation, Disability, or termination by Company with or without Cause, and if Executive is then a member of the Board of Directors of Company or any Subsidiary, Executive shall within two business days after such termination of employment resign from the Board of Directors of Company and from the board of directors of each and every Subsidiary, by delivering to Company (and each Subsidiary, as applicable) a letter or other written communication addressed to the Board of Directors of Company (and each Subsidiary, as applicable) stating that Executive is resigning from the Board of Directors of Company (and each Subsidiary, as applicable) effective immediately. A business day shall be any day other than a Saturday, Sunday, or federal holiday on which federal offices are closed.

8. Arbitration. It is the intention of Executive and Company that the Federal Arbitration Act and the California Arbitration Act shall apply with respect to the arbitration of disputes, claims, and controversies pursuant to, arising under, or in connection with this Agreement. Except for injunctive proceedings against unauthorized disclosure of confidential information, any and all claims or controversies between Company or any Subsidiary and Executive, including but not limited to (a) those involving the construction or application of any of the terms, provisions, or conditions of this Agreement or the Policies; (b) all contract or tort claims of any kind; and (c) any claim based on any federal, state, or local law, statute, regulation, or ordinance, including claims for unlawful discrimination or harassment, shall be settled by arbitration in accordance with the then current Employment Dispute Resolution Rules of the

American Arbitration Association or the Employment Arbitration Rules & Procedures of the Judicial Arbitration and Mediation Service ("JAMS"), as selected by Company or a Subsidiary. Judgment on the award rendered by the arbitrator(s) may be entered by any court having jurisdiction over Company and Executive. The location of the arbitration shall be San Francisco, California. Unless Company or a Subsidiary and Executive mutually agree otherwise, the arbitrator shall be a retired judge selected from a panel provided by the American Arbitration Association, or the Judicial Arbitration and Mediation Service (JAMS). Company, or a Subsidiary, if the Subsidiary is a party to the arbitration proceeding, shall pay the arbitrator's fees and costs. Executive shall pay for Executive's own costs and attorneys' fees, if any. Company and any Subsidiary that is a party to an arbitration proceeding shall pay for its own costs and attorneys' fees, if any. However, if any party prevails on a statutory claim which affords the prevailing party attorneys' fees, the arbitrator may award reasonable attorneys' fees and costs to the prevailing party.

EXECUTIVE UNDERSTANDS AND AGREES THAT THIS AGREEMENT TO ARBITRATE CONSTITUTES A WAIVER OF EXECUTIVE'S RIGHT TO A TRIAL BY JURY OF ANY MATTERS COVERED BY THIS AGREEMENT TO ARBITRATE.

9. **Severability.** In the event that any of the provisions of this Agreement or the Policies shall be held to be invalid or unenforceable in whole or in part, those provisions to the extent enforceable and all other provisions shall nevertheless continue to be valid and enforceable as though the invalid or unenforceable parts had not been included in this Agreement or the Policies. In the event that any provision relating to a time period of restriction shall be declared by a court of competent jurisdiction to exceed the maximum time period such court deems reasonable and enforceable, then the time period of restriction deemed reasonable and enforceable by the court shall become and shall thereafter be the maximum time period.

10. **Agreement Read and Understood.** Executive acknowledges that Executive has carefully read the terms of this Agreement, that Executive has had an opportunity to consult with an attorney or other representative of Executive's own choosing regarding this Agreement, that Executive understands the terms of this Agreement and that Executive is entering this Agreement of Executive's own free will.

11. **Complete Agreement, Modification.** This Agreement is the complete agreement between Executive and Company on the subjects contained in this Agreement. This Agreement supersedes and replaces all previous correspondence, promises, representations, and agreements, if any, either written or oral with respect to Executive's employment by Company or any Subsidiary and any matter covered by this Agreement. No provision of this Agreement may be modified, amended, or waived except by a written document signed both by Company and Executive.

12. **Governing Law.** This Agreement shall be construed and enforced according to the laws of the State of California.

13. **Assignability.** This Agreement, and the rights and obligations of Executive and Company under this Agreement, may not be assigned by Executive. Company may assign any

of its rights and obligations under this Agreement to any successor or surviving corporation, limited liability company, or other entity resulting from a merger, consolidation, sale of assets, sale of stock, sale of membership interests, or other reorganization, upon condition that the assignee shall assume, either expressly or by operation of law, all of Company's obligations under this Agreement.

14. Survival. This Section 14 and the covenants and agreements contained in Sections 4 and 6 of this Agreement shall survive termination of this Agreement and Executive's employment.

15. Notices. Any notices or other communication required or permitted to be given under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested, or sent by next business day air courier service, or personally delivered to the party to whom it is to be given at the address of such party set forth on the signature page of this Agreement (or to such other address as the party shall have furnished in writing in accordance with the provisions of this Section 15).

[SIGNATURES TO THE EMPLOYMENT AGREEMENT ARE FOUND ON THE FOLLOWING PAGE]

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

EXECUTIVE:

Padma Sundar

COMPANY:

ONCOCYTE CORPORATION

By: _____

William Annett
Chief Executive Officer
OncoCyte Corporation
1010 Atlantic Avenue, Suite 102
Alameda, California 94501

[SIGNATURE PAGE TO THE EMPLOYMENT AGREEMENT]

Exhibit A

JOB DESCRIPTION

Job Title: SVP, Marketing and Market Access

Reports to: Chief Operating Officer

FLSA Status: Exempt

SUMMARY OF ESSENTIAL FUNCTIONS:

The Senior Vice President, Marketing and Market Access is responsible for directing OncoCyte's overall Marketing, Strategic Planning and Market Access programs to ensure revenue growth and optimize portfolio management and company profitability

SPECIFIC DUTIES, ACTIVITIES AND RESPONSIBILITIES INCLUDE, BUT ARE NOT LIMITED TO:

- Design and conduct regular strategic and tactical planning processes at the corporate, R&D and brand levels
- Responsible for overseeing and developing the global, life cycle commercial / product strategic plan; securing corporate agreement and overseeing the execution of that plan in the short and long term;
    - Directs the planning and execution of a fully integrated global commercial business plan. This includes global marketing, life cycle, business analytics, market planning and market research as well as sales groups;
    - Ensures that OncoCyte continually identifies changes in the marketing environment or competitive strategies and evaluates, adjusts, or redrafts the organization's marketing plan and philosophy accordingly for all markets worldwide;
    - Works with the management team and their direct reports to ensure the commercial attractiveness of clinical, regulatory, sales, and business development strategies;
    - Conduct market opportunity assessments to optimize pipeline management and product launches
    - Oversee all market research (payer, HCP, patient) to inform commercialization plans and portfolio management
    - Carry out competitive intelligence research and remain aware of competitive threats and opportunities
- Design, implement and manage new product launches and support pipeline portfolio management
    - Develop and implement product launch plans for primary and secondary products
- Direct overall OncoCyte brand development and marketing activities
    - Develop, recommend and execute all product positioning, pricing, promotion, channel and reimbursement strategies to ensure successful product launches and sustainable revenue streams
    - Work with key opinion leaders and industry experts to inform strategy and promote OncoCyte's products
- Responsible for all market access, healthcare economics, pricing, reimbursement, and payer relations activities, including:
    - Implement short term and long term coding plan (CPT)
    - Develop and implement patient assistance program

- Develop and implement billing and appeals process through negotiating and implementing third party billing system
- Support Medical Affairs in the development of clinical utility protocol design and payer dossier for coverage by CMS and large commercial payers
- Carry out pricing and reimbursement studies and create strategies
- Interact with large public and private payers to gain coverage and negotiate an optimal reimbursement
- Support marketing in their work to get the diagnostic accepted as part of nationally recognized guidelines (USPSTF, ATS, APCCMPD, LungRADS)

Executive will work primarily from a Company office but frequent travel may be necessary.

Exhibit B

EMPLOYEE CONFIDENTIAL INFORMATION AND INVENTIONS ASSIGNMENT AGREEMENT

In consideration of my employment or continued employment by ONCOCYTE CORPORATION its subsidiaries, parents, affiliates, successors and assigns (together "***Company***"), and the compensation paid to me now and during my employment with Company, I, Padma Sundar, hereby enter into this Employee Confidential Information and Invention Assignment Agreement (the "***Agreement***") and agree as follows:

1. CONFIDENTIAL INFORMATION PROTECTIONS.

1.1 Recognition of Company's Rights; Nondisclosure. I understand and acknowledge that my employment by Company creates a relationship of confidence and trust with respect to Company's Confidential Information (as defined below) and that Company has a protectable interest therein. At all times during and after my employment, I will hold in confidence and will not disclose, use, lecture upon, or publish any of Company's Confidential Information, except as such disclosure, use or publication may be required in connection with my work for Company, or unless an officer of Company expressly authorizes such disclosure. I will obtain Company's written approval before publishing or submitting for publication any material (written, oral, or otherwise) that discloses and/or incorporates any Confidential Information. I hereby assign to Company any rights I may have or acquire in such Confidential Information and recognize that all Confidential Information shall be the sole and exclusive property of Company and its assigns. I will take all reasonable precautions to prevent the inadvertent accidental disclosure of Confidential Information. Notwithstanding the foregoing, pursuant to 18 U.S.C. Section 1833(b), I shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that: (1) is made in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (2) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

1.2 Confidential Information. The term "***Confidential Information***" shall mean any and all confidential knowledge, data or information of Company. By way of illustration but not limitation, "***Confidential Information***" includes (a) trade secrets, inventions, algorithms, mask works, ideas, processes, formulas, software in source or object code, data, programs, other works of authorship, know-how, improvements, discoveries, developments, designs and techniques and any other proprietary technology and all Intellectual Property Rights (as defined below) therein (collectively, "***Inventions***"), and genetic and protein biomarkers of any and all kinds used in or related to Company diagnostic tests, products, or research, even if not patented or patentable; (b) information regarding research, development, new products, marketing and selling, business plans, budgets and unpublished financial statements, licenses, prices and costs, margins, discounts, credit terms, pricing and billing policies, quoting procedures, methods of obtaining business, forecasts, future plans and potential strategies, financial projections and business strategies, operational plans, financing and capital-raising plans, activities and agreements, internal services and operational manuals, methods of conducting Company business, suppliers and supplier information, and purchasing; (c) information regarding customers and potential customers of Company, including customer lists, names, representatives, their needs or desires with respect to the types of products or services offered by Company, proposals, bids, contracts and their contents and parties, the type and quantity of products and services provided or sought to be provided to customers and potential customers of Company and other non-public information relating to customers and potential customers; (d) information regarding any of Company's business partners and their services, including names, representatives, proposals, bids, contracts and their contents and parties, the type and quantity of products and services received by Company, and other non-public information relating to business partners; (e) information regarding personnel, employee lists, compensation, and employee skills; and (f) any other non-public information which a competitor of Company could use to the competitive disadvantage of Company. Notwithstanding the foregoing, it is understood that, at all such times, I am free to use information which was known to me prior to my employment with Company or which is generally known in the trade or industry through no breach of this Agreement or other act or omission by me, and I am free to discuss the terms and conditions of my employment with others to the extent expressly permitted by Section 7 of the National Labor Relations Act.

1.3 Third Party Information. I understand, in addition, that Company has received and in the future will receive from third parties their confidential and/or proprietary knowledge, data or information ("***Third Party Information***") subject to a duty on Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. During the term of my employment and thereafter, I will hold Third Party Information in confidence and will not disclose to anyone (other than Company personnel who need to know such information in connection with their work for Company) or use, except in connection with my work for Company, Third Party Information or unless expressly authorized by an officer of Company in writing.

1.4 Term of Nondisclosure Restrictions. I understand that Confidential Information and Third Party Information is never to be used or disclosed by me, as provided in this Section 1. If a temporal limitation on my obligation not to use or disclose such information is required under applicable law, and the Agreement or its restriction(s) cannot otherwise be enforced, I agree and Company agrees that the two-year period after the date my employment ends will be the temporal limitation relevant to the contested restriction; ***provided, however,*** that this sentence will not apply to trade secrets protected without temporal limitation under applicable law.

1.5 No Improper Use of Information of Prior Employers and Others. During my employment by Company, I will not improperly use or disclose confidential information or trade secrets, if any, of any former employer or any other person to whom I have an obligation of confidentiality, and I will not bring onto the premises of Company any unpublished documents or any property belonging to any former employer or any other person to whom I have an obligation of confidentiality unless consented to in writing by that former employer or person.

2. ASSIGNMENTS OF INVENTIONS.

2.1 Definitions. As used in this Agreement, the term "***Intellectual Property Rights***" means all trade secrets, Copyrights, trademarks, mask work rights, patents and other intellectual property rights recognized by the laws of any jurisdiction or country; the term "***Copyright***" means the exclusive legal right to reproduce, perform, display, distribute and make derivative works of a work of authorship (as a literary, musical, or artistic work) recognized by the laws of any jurisdiction or country; and the term "***Moral Rights***" means all paternity, integrity, disclosure, withdrawal, special and any other similar rights recognized by the laws of any jurisdiction or country.

2.2 Excluded Inventions and Other Inventions. Attached hereto as **Exhibit A** is a list describing all existing Inventions, if any, (a) that are owned by me or in which I have an interest and were made or acquired by me prior to my date of first employment by Company, (b) that may relate to Company's business or actual or demonstrably anticipated research or development, and (c) that are not to be assigned to Company ("***Excluded Inventions***"). If no such list is attached, I represent and agree that it is because I have no Excluded Inventions. For purposes of this Agreement, "***Other Inventions***" means Inventions in which I have or may have an interest, as of the commencement of my employment or thereafter, other than Company Inventions (as defined below) and Excluded Inventions. I acknowledge and agree that if I use any Excluded Inventions or any Other Inventions in the scope of my employment, or if I include any Excluded Inventions or Other Inventions in any product or service of Company, or if my rights in any Excluded Inventions or Other Inventions may block or interfere with, or may otherwise be required for, the exercise by Company of any rights assigned to Company under this Agreement, I will immediately so notify Company in writing. Unless Company and I agree otherwise in writing as to particular Excluded Inventions or Other Inventions, I hereby grant to Company, in such circumstances (whether or not I give Company notice as required above), a non-exclusive, perpetual, transferable, fully-paid and royalty-free, irrevocable and worldwide license, with rights to sublicense through multiple levels of sublicensees, to reproduce, make derivative works of, distribute, publicly perform, and publicly display in any form or medium, whether now known or later developed, make, have made, use, sell, import, offer for sale, and exercise any and all present or future rights in, such Excluded Inventions and Other Inventions. To the extent that any third parties have rights in any such Other Inventions, I hereby represent and warrant that such third party or parties have validly and irrevocably granted to me the right to grant the license stated above.

2.3 Assignment of Company Inventions. Inventions assigned to Company or to a third party as directed by Company pursuant to Section 2.6 are referred to in this Agreement as "***Company Inventions***." Subject to Section 2.4 and except for Excluded Inventions set forth in **Exhibit A** and Other Inventions, I hereby assign to Company all my right, title, and interest in and to any and all Inventions (and all Intellectual Property Rights with respect thereto) made, conceived, reduced to practice, or learned by me, either alone or with others, during the period of my employment by Company. To the extent required by applicable Copyright laws, I agree to assign in the future (when any copyrightable Inventions are first fixed in a tangible medium of expression) my Copyright rights in and to such Inventions. Any assignment of Company Inventions (and all Intellectual Property Rights with respect thereto) hereunder includes an assignment of all Moral Rights. To the extent such Moral Rights cannot be assigned to Company and to the extent the following is allowed by the laws in any country where Moral Rights exist, I hereby unconditionally and irrevocably waive the enforcement of such Moral Rights, and all claims and causes of action of any kind against Company or related to Company's customers, with respect to such rights. I further acknowledge and agree that neither my successors-in-interest nor legal heirs retain any Moral Rights in any Company Inventions (and any Intellectual Property Rights with respect thereto).

2.4 Unassigned or Nonassignable Inventions. I recognize that this Agreement will not be deemed to require assignment of any Invention that is covered under California Labor Code section 2870(a) (the "***Specific Inventions Law***") except for those Inventions that are covered by a contract between Company and the United States or any of its agencies that require full title to such patent or Invention to be in the United States.

2.5 Obligation to Keep Company Informed. During the period of my employment, I will promptly and fully disclose to Company in writing all Inventions authored, conceived, or reduced to practice by me, either alone or jointly with others. At the time of each such disclosure, I will advise Company in writing of any Inventions that I believe fully

qualify for protection under the provisions of the Specific Inventions Law; and I will at that time provide to Company in writing all evidence necessary to substantiate that belief. Company will keep in confidence and will not use for any purpose or disclose to third parties without my consent any confidential information disclosed in writing to Company pursuant to this Agreement relating to Inventions that qualify fully for protection under the Specific Inventions Law. I will preserve the confidentiality of any Invention that does not fully qualify for protection under the Specific Inventions Law.

2.6 Government or Third Party. I agree that, as directed by Company, I will assign to a third party, including without limitation the United States, all my right, title, and interest in and to any particular Company Invention.

2.7 Ownership of Work Product. I agree that Company will exclusively own all work product that is made by me (solely or jointly with others) within the scope of my employment, and I hereby irrevocably and unconditionally assign to Company all right, title and interest worldwide in and to such work product. I acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of my employment and which are protectable by Copyright are "works made for hire," pursuant to United States Copyright Act (17 U.S.C., Section 101). I understand and agree that I have no right to publish on, submit for publishing, or use for any publication any work product protected by this Section, except as necessary to perform services for Company.

2.8 Enforcement of Intellectual Property Rights and Assistance. I will assist Company in every proper way to obtain, and from time to time enforce, United States and foreign Intellectual Property Rights and Moral Rights relating to Company Inventions in any and all countries. To that end I will execute, verify and deliver such documents and perform such other acts (including appearances as a witness) as Company may reasonably request for use in applying for, obtaining, perfecting, evidencing, sustaining and enforcing such Intellectual Property Rights and the assignment thereof. In addition, I will execute, verify and deliver assignments of such Intellectual Property Rights to Company or its designee, including the United States or any third party designated by Company. My obligation to assist Company with respect to Intellectual Property Rights relating to such Company Inventions in any and all countries will continue beyond the termination of my employment, but Company will compensate me at a reasonable rate after my termination for the time actually spent by me at Company's request on such assistance. In the event Company is unable for any reason, after reasonable effort, to secure my signature on any document needed in connection with the actions specified in the preceding paragraph, I hereby irrevocably designate and appoint Company and its duly authorized officers and agents as my agent and attorney in fact, which appointment is coupled with an interest, to act for and on my behalf to execute, verify and file any such documents and to do all other lawfully permitted acts to further the purposes of the preceding paragraph with the same legal force and effect as if executed by me. I hereby waive and quitclaim to Company any and all claims, of any nature whatsoever, which I now or may hereafter have for infringement of any Intellectual Property Rights assigned under this Agreement to Company.

2.9 Incorporation of Software Code. I agree that I will not incorporate into any Company software or otherwise deliver to Company any software code licensed under the GNU General Public License or Lesser General Public License or any other license that, by its terms, requires or conditions the use or distribution of such code on the disclosure, licensing, or distribution of any source code owned or licensed by Company except in strict compliance with Company's policies regarding the use of such software.

3. RECORDS. I agree to keep and maintain adequate and current records (in the form of notes, sketches, drawings and in any other form that is required by Company) of all Confidential Information developed by me and all Company Inventions made by me during the period of my employment at Company, which records will be available to and remain the sole property of Company at all times.

4. DUTY OF LOYALTY DURING EMPLOYMENT. I agree that during the period of my employment by Company, I will not, without Company's express written consent, directly or indirectly engage in any employment or business activity which is directly or indirectly competitive with, or would otherwise conflict with, my employment by Company.

5. NO SOLICITATION OF EMPLOYEES, CONSULTANTS OR CONTRACTORS. I agree that during the period of my employment and for the one year period after the date my employment ends for any reason, including but not limited to voluntary termination by me or involuntary termination by Company, I will not, as an officer, director, employee, consultant, owner, partner, or in any other capacity, either directly or through others, except on behalf of Company, solicit, induce, encourage, or participate in soliciting, inducing or encouraging any person known to me to be an employee, consultant, or independent contractor of Company to terminate his or her relationship with Company, even if I did not initiate the discussion or seek out the contact.

6. REASONABLENESS OF RESTRICTIONS.

6.1 I agree that I have read this entire Agreement and understand it. I agree that this Agreement does not prevent me from earning a living or pursuing my career. I agree that the restrictions contained in this Agreement are reasonable, proper, and necessitated by Company's legitimate business interests. I represent and agree that I am entering into this Agreement freely and with knowledge of its contents with the intent to be bound by the Agreement and the restrictions contained in it.

6.2 In the event that a court finds this Agreement, or any of its restrictions, to be ambiguous, unenforceable, or invalid, I and Company agree that the court will read the

Agreement as a whole and interpret the restriction(s) at issue to be enforceable and valid to the maximum extent allowed by law.

6.3 If the court declines to enforce this Agreement in the manner provided in subsection 6.2, Company and I agree that this Agreement will be automatically modified to provide Company with the maximum protection of its business interests allowed by law and I agree to be bound by this Agreement as modified.

7. NO CONFLICTING AGREEMENT OR OBLIGATION. I represent that my performance of all the terms of this Agreement and as an employee of Company does not and will not breach any agreement to keep in confidence information acquired by me in confidence or in trust prior to my employment by Company. I have not entered into, and I agree I will not enter into, any agreement either written or oral in conflict with this Agreement.

8. RETURN OF COMPANY PROPERTY. When I leave the employ of Company, I will deliver to Company any and all drawings, notes, memoranda, specifications, devices, formulas and documents, together with all copies thereof, and any other material containing or disclosing any Company Inventions, Third Party Information or Confidential Information of Company. I agree that I will not copy, delete, or alter any information contained upon my Company computer or Company equipment before I return it to Company. In addition, if I have used any personal computer, server, or e-mail system to receive, store, review, prepare or transmit any Company information, including but not limited to, Confidential Information, I agree to provide Company with a computer-useable copy of all such Confidential Information and then permanently delete and expunge such Confidential Information from those systems; and I agree to provide Company access to my system as reasonably requested to verify that the necessary copying and/or deletion is completed. I further agree that any property situated on Company's premises and owned by Company, including disks and other storage media, filing cabinets or other work areas, is subject to inspection by Company's personnel at any time with or without notice. Prior to leaving, I will cooperate with Company in attending an exit interview and completing and signing Company's termination statement if required to do so by Company.

9. LEGAL AND EQUITABLE REMEDIES.

9.1 I agree that it may be impossible to assess the damages caused by my violation of this Agreement or any of its terms. I agree that any threatened or actual violation of this Agreement or any of its terms will constitute immediate and irreparable injury to Company, and Company will have the right to enforce this Agreement and any of its provisions by injunction, specific performance or other equitable relief, without bond and without prejudice to any other rights and remedies that Company may have for a breach or threatened breach of this Agreement.

9.2 In the event Company enforces this Agreement through a court order, I agree that the restrictions of Section 5 will remain in effect for a period of 12 months from the effective date of the Order enforcing the Agreement.

10. NOTICES. Any notices required or permitted under this Agreement will be given to Company at its headquarters location at the time notice is given, labeled "Attention Chief Executive Officer," and to me at my address as listed on Company payroll, or at such other address as Company or I may designate by written notice to the other. Notice will be effective upon receipt or refusal of delivery. If delivered by certified or registered mail, notice will be considered to have been given five business days after it was mailed, as evidenced by the postmark. If delivered by courier or express mail service, notice will be considered to have been given on the delivery date reflected by the courier or express mail service receipt.

11. PUBLICATION OF THIS AGREEMENT TO SUBSEQUENT EMPLOYER OR BUSINESS ASSOCIATES OF EMPLOYEE.

11.1 If I am offered employment or the opportunity to enter into any business venture as owner, partner, consultant or other capacity while the restrictions described in Section 5 of this Agreement are in effect I agree to inform my potential employer, partner, co-owner and/or others involved in managing the business with which I have an opportunity to be associated of my obligations under this Agreement and also agree to provide such person or persons with a copy of this Agreement.

11.2 I agree to inform Company of all employment and business ventures which I enter into while the restrictions described in Section 5 of this Agreement are in effect and I also authorize Company to provide copies of this Agreement to my employer, partner, co-owner and/or others involved in managing the business with which I am employed or associated and to make such persons aware of my obligations under this Agreement.

12. GENERAL PROVISIONS.

12.1 Governing Law; Consent to Personal Jurisdiction. This Agreement will be governed by and construed according to the laws of the State of California as such laws are applied to agreements entered into and to be performed entirely within California between residents of California. I hereby expressly consent to the personal jurisdiction and venue of the state and federal courts located in California for any lawsuit filed there against me by Company arising from or related to this Agreement.

12.2 Severability. In case any one or more of the provisions, subsections, or sentences contained in this Agreement will, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect the other provisions of this

Agreement, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement. If moreover, any one or more of the provisions contained in this Agreement will for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it will be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it will then appear.

12.3 Successors and Assigns. This Agreement is for my benefit and the benefit of Company, its successors, assigns, parent corporations, Subsidiaries, affiliates, and purchasers, and will be binding upon my heirs, executors, administrators and other legal representatives.

12.4 Survival. This Agreement shall survive the termination of my employment, regardless of the reason, and the assignment of this Agreement by Company to any successor in interest or other assignee.

12.5 Employment At-Will. I agree and understand that nothing in this Agreement will change my at-will employment status or confer any right with respect to continuation of employment by Company, nor will it interfere in any way with my right or Company's right to terminate my employment at any time, with or without cause or advance notice.

12.6 Waiver. No waiver by Company of any breach of this Agreement will be a waiver of any preceding or succeeding breach. No waiver by Company of any right under this Agreement will be construed as a waiver of any other right. Company will not be required to give notice to enforce strict adherence to all terms of this Agreement.

12.7 Export. I agree not to export, reexport, or transfer, directly or indirectly, any U.S. technical data acquired from Company or any products utilizing such data, in violation of the United States export laws or regulations.

12.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument. This Agreement may also be executed and delivered by facsimile signature, PDF or any electronic signature complying with the U.S. federal ESIGN Act of 2000 (e.g., www.docusign.com).

12.9 Advice of Counsel. I ACKNOWLEDGE THAT, IN EXECUTING THIS AGREEMENT, I HAVE HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL, AND I HAVE READ AND UNDERSTOOD ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT. THIS AGREEMENT WILL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION OF THIS AGREEMENT.

This Agreement shall be effective as of May 22, 2019.

EMPLOYEE:

I HAVE READ, UNDERSTAND, AND ACCEPT THIS AGREEMENT AND HAVE BEEN GIVEN THE OPPORTUNITY TO REVIEW IT WITH INDEPENDENT LEGAL COUNSEL.

Padma Sundar.

(Signature)

Padma Sundar

Name

05/22/2019.

Date

Address:

COMPANY:

ACCEPTED AND AGREED

ONCOCYTE CORPORATION

By:

Name: William Annett
Title: Chief Executive Officer

Address: 1010 Atlantic Avenue, Suite 102
Alameda, CA 94501

EXHIBIT A
TO THE
EMPLOYEE CONFIDENTIAL INFORMATION AND INVENTIONS ASSIGNMENT AGREEMENT

EXCLUDED INVENTIONS

TO: **OncoCyte Corporation**

FROM: **Padma Sundar**

DATE: _____

1. **Excluded Inventions Disclosure.** Except as listed in Section 2 below, the following is a complete list of all Excluded Inventions:

☐ No Excluded Inventions.

☐ See below:

_____
_____
_____
_____
_____
_____

☐ Additional sheets attached.

2. Due to a prior confidentiality agreement, I cannot complete the disclosure under Section 1 above with respect to the Excluded Inventions generally listed below, the intellectual property rights and duty of confidentiality with respect to which I owe to the following party(ies):

	Excluded Invention	Party(ies)	Relationship
1.			
2.			
3.			

☐ Additional sheets attached.

3. Limited Exclusion Notification.

This is to notify you in accordance with Section 2872 of the California Labor Code that the foregoing Agreement between you and Company does not require you to assign or offer to assign to Company any Invention that you develop entirely on your own time without using Company's equipment, supplies, facilities or trade secret information, except for those Inventions that either:

a. Relate at the time of conception or reduction to practice to Company's business, or actual or demonstrably anticipated research or development; or

b. Result from any work performed by you for Company.

To the extent a provision in the foregoing Agreement purports to require you to assign an Invention otherwise excluded from the preceding paragraph, the provision is against the public policy of this state and is unenforceable.

This limited exclusion does not apply to any patent or Invention covered by a contract between Company and the United States or any of its agencies requiring full title to such patent or Invention to be in the United States.

LEASE AGREEMENT

BY AND BETWEEN

MPC HOLDINGS, LLC
("LANDLORD")

AND

INSIGHT GENETICS, INC.
("TENANT")

DATED AS OF

NOVEMBER 2, 2011

FOR

SUITE NUMBER #510

CONTAINING 4,102 RENTABLE SQUARE FEET

AT THE INTERNATIONAL PLAZA OFFICE BUILDING

TERM: 87 MONTHS

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made and entered into this 10th day of November, 2011, effective as of January 10th, 2012, ("Occupancy Date") by and between Landlord and Tenant.

WITNESSETH:

1. Certain Definitions. For purposes of this Lease, the following terms shall have the meanings hereinafter ascribed thereto:

   (a) Landlord: MPC Holdings, LLC, a Tennessee limited liability company.

   (b) Landlord's Address: One Terminal Drive, Suite 502, Nashville Tennessee 37214.

   (c) Tenant: Insight Genetics, Inc.

   (d) Tenant's Notice Address: 111 10th Avenue South, Suite #110, Nashville, TN 37203 until the Occupancy Date and then the Building Address below thereafter

   (e) Building Address: International Plaza, Two International Plaza Drive, Nashville, Tennessee 37217.

   (f) Suite Number: #510

   (g) Rentable Floor Area of Demised Premises: 4,102 rentable square feet.

   (h) Rent and Base Rental: The annual rental rate per square foot for the Lease Term is as follows:

First 3 months free	$ 0.00
Year 1	$ 65,426.90
Year 2	$ 67,395.86
Year 3	$ 69,405.84
Year 4	$ 71,497.86
Year 5	$ 73,630.90
Year 6	$ 75,845.98
Year 7	$ 78,143.10

The "Base Rental" due hereunder from Tenant per month shall be as follows:

Portion of the Lease Term	Base Rental Per Month
Months 1-3	$ 0.00
Months 4-15	$ 5,452.24
Months 16-27	$ 5,616.32

Months 28-39	$ 5,783.82
Months 40-51	$ 5,958.16
Months 52-63	$ 6,135.91
Months 64-75	$ 6,320.50
Months 76-87	$ 6,511.93

For purposes of calculating the Base Rental set forth above, Landlord and Tenant have agreed that the rentable floor area of the Demised Premises is 4,102 rentable square feet regardless of any measurement discrepancies or variations that may arise from differing measurement techniques.

(i) Occupancy Date: January 10, 2012

(j) Rental Commencement Date: April 10, 2012.

(k) Brokers: Landlord Representative: Grubb & Ellis|Centennial, Inc.

Tenant Representative: "Same"

2. Lease of Demised Premises. Landlord, in consideration of the covenants and agreements to be performed by Tenant hereunder, and upon the terms and conditions herein stated, does hereby rent and lease unto Tenant, and Tenant does hereby rent and lease from Landlord, certain premises (the "Demised Premises") in the building (the "Building") located on that certain tract of land (the "Land") more particularly described on Exhibit A attached hereto and by this reference made a part hereof, which Demised Premises are outlined in red or cross-hatched on the floor plan attached hereto as Exhibit B and by this reference made a part hereof, with no easement for light or view included in the Demised Premises or being granted hereunder.

3. Lease Term. This Lease is effective as of the date the Lease is signed and approved by both parties, with the term of this Lease (the "Lease Term") commencing on the Rental Commencement Date, and ending on April 9th, 2019, unless sooner terminated as provided in this Lease. There shall be a three percent (3%) escalation in base rental fees above the previous year's rental rate which shall be applied annually upon each anniversary of stated Rental Commencement Date. The Tenant shall have one option to terminate this Lease early upon the 5th year anniversary of the Rental Commencement date; April 9th, 2017. The penalty to exercise this 5 year option by Tenant to terminate this Lease early shall be for Tenant to reimburse Landlord for any unamortized leasehold improvement costs and commission expenses; and shall include a five percent (5%) administration fee on that remaining leasehold improvement costs. This penalty shall not exceed $50,000. Landlord shall have no ability to terminate this Lease prior to the expiration of the Term except as provided elsewhere in this Lease.

4. Renewals. Provided that Tenant is not, nor has been, in default under the Lease beyond the expiration of any applicable grace or cure periods, Tenant shall have the option to renew the Term of this Lease for two (2) each five (5) year periods (which periods are referred to herein as "Renewal Terms"), provided written notice of the election of such option shall be sent to Landlord not less than three (3) months prior to the expiration of the then expiring Term. If said option is duly exercised, the Lease Term shall be automatically extended for the period of

the next ensuing option, without the requirement of any further instrument, upon all of the same terms, provisions and conditions set forth in this Lease. There will be a three percent (3%) escalation in base rental fees above the previous base year's rental rate beginning on the Rental Commencement Date of renewed "Lease Term" and shall be applied annually upon each anniversary of said Rental Commencement Date. If Tenant fails to send written notice of renewal as provided herein, then Tenant shall have irrevocably waived its right to renew the Lease. Any reference in this Lease to the "Term of this Lease" or "Term" or "Lease Term" shall mean the Initial Term, together with any Renewal Term accruing pursuant to this Section 3. This option to renew shall inure to Tenant only, and not to any subtenant or assignee of Tenant, unless such subtenant or assignee is a parent, subsidiary, affiliate, or successor-in-interest of Tenant.

5. Possession. The obligations of Landlord and Tenant with respect to the leasehold improvements to the Demised Premises are set forth in Exhibits C and D attached hereto and by this reference made a part hereof. Taking of possession by Tenant shall be deemed conclusively to establish that Landlord's construction obligations with respect to the Demised Premises have been completed in accordance with the plans and specifications approved by Landlord and Tenant and that the Demised Premises, to the extent of Landlord's construction obligations with respect thereto, are in good and satisfactory condition.

6. Rental Payments.

(a) Commencing on the Rental Commencement Date, and continuing thereafter throughout the Lease Term, Tenant hereby agrees to pay all Rent due and payable under this Lease. As used in this Lease, the term "Rent" shall mean the Base Rental set forth in Section 1(h) hereof and any other amounts that Tenant assumes or agrees to pay under the provisions of this Lease which are owed to Landlord, including, without limitation, any and all other sums that may become due by reason of any default of Tenant or failure on Tenant's part to comply with the agreements, terms, covenants and conditions of this Lease to be performed by Tenant. A monthly installment of Base Rental shall be due and payable on the first day of each calendar month, commencing on the Rental Commencement Date and continuing thereafter throughout the Lease Term and any extensions or renewals thereof. Tenant hereby agrees to pay such Base Rental to Landlord at Landlord's address as provided herein (or such other address as may be designated by Landlord from time to time) monthly in advance. Tenant shall pay all Rent and other sums of money as shall become due from and payable by Tenant to Landlord under this Lease at the times and in the manner provided in this Lease, without demand, set-off or counterclaim.

(b) If the Rental Commencement Date is other than the first day of a calendar month or if this Lease terminates on a day other than the last day of a calendar month, then the installments of Base Rental for such month or months shall be prorated on a daily basis and the installment or installments so prorated shall be paid in advance.

7. Tenant Taxes. Tenant shall pay promptly when due all taxes directly or indirectly imposed or assessed upon Tenant's gross sales, business operations, machinery, equipment, trade fixtures and other personal property or assets, whether such taxes are assessed against Tenant, Landlord or the Building. In the event that such taxes are imposed or assessed against Landlord

or the Building, Landlord shall furnish Tenant with all applicable tax bills, public charges and other assessments or impositions upon receipt and Tenant shall forthwith pay the same either directly to the taxing authority or, at Landlord's option, to Landlord.

8. Payments. All payments of Rent and other payments to be made to Landlord shall be made on a timely basis and shall be payable to Landlord or as Landlord may otherwise designate. All such payments shall be mailed or delivered to Landlord's Address designated in Section 1(b) hereof or at such other place as Landlord may designate in writing from time to time. If mailed, all payments shall be mailed in sufficient time and with adequate postage thereon to be received in Landlord's account by no later than the due date for such payment. Tenant agrees to pay to Landlord Fifty Dollars ($50.00) for each check presented to Landlord in payment of any obligation of Tenant which is not paid by the bank on which it is drawn, together with interest from and after the due date for such payment at the lesser of (i) the rate of ten percent (10%) per annum or (ii) the maximum legal rate of interest.

9. Late Charges. Any Rent or other amounts payable to Landlord under this Lease, if not paid by the fifth day of the month for which such Rent is due, or by the due date specified on any invoices from Landlord for any other amounts payable hereunder, shall incur a late charge of Fifty Dollars ($50.00) for Landlord's administrative expense in processing such delinquent payment and in addition thereto shall bear interest from and after the due date for such payment at the lesser of (i) the rate of ten percent (10%) per annum or (ii) the maximum legal rate of interest.

10. Use Rules.

(a) The Demised Premises shall be used for executive, general administrative and office space purposes, research and development, and clinical diagnostic laboratory, and no other purposes and in accordance with all applicable laws, ordinances, rules and regulations of governmental authorities and the Rules and Regulations attached hereto and made a part hereof.

(b) Tenant covenants and agrees that it will, at its expense, comply with all laws, ordinances, orders, directions, requirements, rules and regulations of all governmental authorities (including federal, state, county and municipal authorities), now in force or which may hereafter be in force, which shall impose any duty upon Landlord or Tenant with respect to Tenant's particular use, occupancy or alteration of the Demised Premises, and of all insurance underwriters applicable to the Demised Premises or to Tenant's use, occupancy or alteration thereof. Tenant covenants and agrees to abide by the Rules and Regulations in all respects as now set forth and attached hereto or as hereafter reasonably promulgated by Landlord. Landlord shall have the right at all times during the Lease Term to publish and promulgate and thereafter enforce such reasonable rules and regulations or changes in the existing Rules and Regulations as it may reasonably deem necessary in its sole but reasonable discretion to protect the tenantability, safety, operation and welfare of the Demised Premises.

11. Alterations. Except for any initial improvement of the Demised Premises pursuant to Exhibits C and D hereto, which shall be governed by the provisions of such Exhibits

C and D, Tenant shall not make, suffer or permit to be made any alterations, additions or improvements to or of the Demised Premises or any part thereof, or attach any fixtures or equipment thereto, without first obtaining Landlord's written consent. With respect to any alteration, addition or improvement which does not affect the structure of the Building, does not affect any of the Building's systems (*e.g.*, mechanical or electrical systems or plumbing), does not diminish the capacity of such Building systems available to other portions of the Building, and is in full compliance with all laws, orders, ordinances, directions, requirements, rules and regulations of all governmental authorities, Landlord's consent shall not be unreasonably withheld. All such alterations, additions and improvements shall become Landlord's property at the expiration or earlier termination of the Lease Term and shall remain on the Demised Premises without compensation to Tenant unless Landlord notifies Tenant to remove the same at the expiration or earlier termination of the Lease Term, in which event, notwithstanding any contrary provisions respecting such alterations, additions and improvements contained in Section 29 hereof, Tenant shall promptly restore, at its sole cost and expense, the Demised Premises to its condition prior to the installation of such alterations, additions and improvements, normal wear and tear excepted.

12. Repairs.

(a) Landlord shall maintain in good order and repair, subject to normal wear and tear and subject to casualty and condemnation, the Building (but excluding the Demised Premises and other portions of the Building leased to other tenants), the Building parking facilities, the public areas and the landscaped areas on the Land. Notwithstanding the foregoing obligation, the cost of any repairs or maintenance to the foregoing necessitated by the intentional acts or negligence of Tenant or its agents, contractors, employees, invitees, licensees, sublessees or assigns shall be borne solely by Tenant and shall be deemed Rent hereunder and shall be reimbursed by Tenant to Landlord upon demand. Landlord shall not be required to make any repairs or improvements to the Demised Premises except structural repairs necessary for safety and tenantability.

(b) Tenant covenants and agrees that it will take good care of the Demised Premises and all alterations, additions and improvements thereto and will keep and maintain the same in good condition and repair, except for normal wear and tear. Tenant shall at once report, in writing, to Landlord any defective or dangerous condition known to Tenant. To the fullest extent permitted by law, Tenant hereby waives all rights to make repairs at the expense of Landlord or in lieu thereof to vacate the Demised Premises as may be provided by any law, statute or ordinance now or hereinafter in effect. Landlord has no obligation and has made no promise to alter, remodel, improve, repair, decorate or paint the Demised Premises or any part thereof, except as specifically and expressly herein set forth.

13. Landlord's Right of Entry. Landlord shall retain duplicate keys to all doors of the Demised Premises and Landlord and its agents, employees and independent contractors shall have the right to enter the Demised Premises at reasonable hours to inspect and examine the same, to make repairs, additions, alterations and improvements, to exhibit the Demised Premises to mortgagees or prospective mortgagees, purchasers or tenants, and to inspect the Demised

Premises to ascertain that Tenant is complying with all of its covenants and obligations hereunder, all without being liable to Tenant in any manner whatsoever for any damage arising therefrom; provided, however, that Landlord shall, except in the case of an emergency, afford Tenant such prior notification of an entry into the Demised Premises as shall be reasonably practicable under the circumstances. Landlord shall be allowed to take into and through the Demised Premises any and all materials that may be required to make such repairs, additions, alterations or improvements. During such time as such work is being carried on, in or about the Demised Premises, the Rent provided herein shall not abate, and Tenant waives any claim or cause of action against Landlord for damages by reason of interruption of Tenant's business or loss of profits therefrom because of the prosecution of any such work or part thereof. Notwithstanding anything in this Section 13 to the contrary, Landlord shall use reasonable efforts to minimize any interruption of Tenant's business while performing any non-emergency repairs, alterations or improvements to the Demised Premises.

14. Insurance.

(a) Tenant shall obtain at its expense and maintain throughout the Lease Term a policy or policies of commercial property insurance, issued on an "all risks" basis and insuring the full replacement cost of its furniture, equipment, supplies and other property owned, leased, held or possessed by it and contained in the Demised Premises, together with the excess value of Tenant's improvements to the Demised Premises (with a replacement cost endorsement sufficient to prevent Tenant from becoming a co-insurer), and worker's compensation insurance as required by applicable law. Tenant shall also obtain at its expense and maintain throughout the Lease Term a policy or policies of commercial general liability insurance, including, without limitation, insurance coverage assumed or contractual liability under this Lease, written on an occurrence basis and insuring against any and all liability for injury to or death of a person or persons and for damage to property occasioned by or arising out of any construction work being done on the Demised Premises, or arising out of the condition, use or occupancy of the Demised Premises, or in any way occasioned by or arising out of the activities of Tenant or its agents, sublessees, contractors, employees, guests or licensees in the Demised Premises, in a combined single limit for both damage to property and personal injury in the amount of not less than One Million Dollars ($1,000,000.00) for each occurrence. Such insurance shall, in addition, extend to any liability of Tenant arising out of the indemnities provided by Tenant in this Lease. Tenant shall require any contractor performing work for Tenant on the Demised Premises to carry and maintain, at no expense to Landlord, comprehensive general liability insurance, including, without limitation, contractor's liability coverage, contractual liability coverage, completed operations coverage, broad form property damage endorsement and contractor's protection liability coverage in such amounts, with such deductibles and with such companies as Landlord shall reasonably approve. All insurance policies obtained and maintained by Tenant pursuant to this Section 14 shall name Landlord and any additional parties designated by Landlord as additional insureds (or the co-loss payee in the case of the commercial property insurance), shall be carried with companies licensed to do business in the State of Tennessee and shall be non-cancelable and not subject to material

change except after thirty (30) business days prior written notice to Landlord. Duly executed certificates of insurance with respect thereto, accompanied by proof of payment of the premiums therefor, shall be delivered to Landlord prior to the Rental Commencement Date, and certificates evidencing renewals of such policies shall be delivered to Landlord at least thirty (30) days prior to the expiration of each respective policy term.

(b) Tenant shall also carry such other types of insurance in form and amount as Landlord shall reasonably deem to be prudent for Tenant to carry under then-current circumstances or conditions. All insurance policies obtained and maintained by Tenant pursuant to this Section 14 shall be carried with companies licensed to do business in the State of Tennessee reasonably satisfactory to Landlord.

15. Waiver of Subrogation. Landlord and Tenant shall each have included in all policies of commercial general liability and business interruption and other insurance obtained by them covering the Demised Premises, the Building and contents therein, a waiver by the insurer of all right of subrogation against the other in connection with any loss or damage thereby insured against. Any additional premium for such waiver shall be paid by the primary insured. To the full extent permitted by law, Landlord and Tenant each waives all right of recovery against the other for, and agrees to release the other from liability for, loss or damage to the extent such loss or damage is covered by valid and collectible commercial property insurance in effect at the time of such loss or damage or would be covered by such insurance as is required to be maintained under this Lease by the party seeking recovery.

16. Default.

(a) The following events shall be deemed to be events of default by Tenant under this Lease: (i) Tenant fails to pay any Rent or any other charge or sum payable by Tenant pursuant to the terms hereof within thirty (30) days after written notice thereof to Tenant; (ii) Tenant fails to comply with any term, provision, covenant or warranty made under this Lease by Tenant (excepting the payment of Rent or any other charge or sum payable by Tenant hereunder) and fails to cure such failure within thirty (30) days after notice thereof to Tenant, provided, however, that if the curing of such failure to comply (A) requires activity over a period of time and (B) Tenant promptly commences to cure such noncompliance, to the satisfaction of Landlord, within such thirty (30) day period and diligently pursues the curing of such failure to comply as determined by Landlord, then such thirty (30) period may be extended to a period not to exceed ninety (90) days; (iii) Tenant or any guarantor of this Lease makes a general assignment for the benefit of creditors, or admits in writing its inability to pay its debts as they become due, or files a petition in bankruptcy, or is adjudicated as bankrupt or insolvent, or files a petition in any proceeding seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, or files an answer admitting, or fails timely to contest, the material allegations of a petition filed against it in any such proceeding; (iv) a proceeding is commenced against Tenant or any guarantor of this Lease seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, and such proceeding is not dismissed within thirty (30)

days after the commencement thereof; (v) a receiver or trustee is appointed for the Demised Premises or for all or substantially all of the assets of Tenant or any guarantor of this Lease; (vi) Tenant abandons or vacates all or any portion of the Demised Premises or fails to take possession thereof and fails to pay Rent as provided in this Lease; (vii) Tenant does or permits to be done anything which creates a lien upon the Demised Premises and such lien is not removed, discharged or bonded (if being disputed) within fifteen (15) days after the filing thereof; (viii) Tenant fails to return a properly executed instrument to Landlord in accordance with the provisions of Section 25 hereof within the time period provided for such return following Landlord's request for the same; or (ix) Tenant fails to return a properly executed estoppel certificate to Landlord in accordance with the provisions of Section 25 hereof following Landlord's request for the same.

(b) Upon the occurrence of any of the aforesaid events of default, Landlord shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

(i) to terminate this Lease, in which event Tenant shall immediately surrender the Demised Premises to Landlord and, if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in Rent, enter upon and take possession of the Demised Premises and expel or remove Tenant and any other person or entity that may be occupying the Demised Premises or any part thereof, without being liable for prosecution or any claim of damages therefor, with Tenant hereby agreeing to pay Landlord on demand the amount of all loss and damage which Landlord may suffer by reason of such termination, whether through inability to re-let the Demised Premises on satisfactory terms or otherwise;

(ii) to terminate Tenant's right of possession (but not this Lease) and enter upon and take possession of the Demised Premises and expel or remove Tenant and any other person or entity that may be occupying the Demised Premises or any part thereof, by any lawful means, including dispossessory suit or otherwise, without thereby releasing Tenant from any liability hereunder, without terminating this Lease, and without being liable for prosecution or any claim of damages therefor, if Landlord so elects, make such alterations, redecorations and repairs as, in Landlord's judgment, may be necessary to re-let the Demised Premises, and Landlord may re-let the Demised Premises or any portion thereof (but without any obligation to do so) in Landlord's or Tenant's name, but for the account of Tenant, for such term or terms (which may be for a term extending beyond the Lease Term) and at such rental or rentals and upon such other terms as Landlord may deem advisable, with or without advertisement, and by private negotiations, and receive the rent therefrom, Tenant hereby agreeing to pay to Landlord the deficiency, if any, between all Rent reserved hereunder and the total rental applicable to the Lease Term hereof obtained by Landlord from any such re-letting, and Tenant shall be liable for Landlord's expenses in redecorating and restoring the Demised Premises and all costs incident to such re-letting, including broker's commissions and lease assumptions, and in no event shall Tenant be

entitled to any rentals received by Landlord in excess of the amounts due by Tenant hereunder; or

(iii) to enter upon the Demised Premises by force, if necessary, without being liable for prosecution or any claim of damages therefor, and do whatever Tenant is obligated to do under the terms of this Lease; or

(iv) to seek any unamortized cost of the Leasehold Improvements, as set forth in Exhibit C, commission expenses as well as a five percent (5%) administrative fee on that remaining Leasehold Improvement cost.

Tenant agrees to reimburse Landlord on demand for any expenses in connection with Landlord's actions under this Section 16(b), including, without limitation, reasonable attorneys' fees which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease. Tenant further agrees that Landlord shall not be liable for any damages resulting to Tenant from any such action. Landlord shall use all commercially reasonable efforts to mitigate any damages hereunder. If this Lease is terminated by Landlord as a result of the occurrence of an event of default hereunder, Landlord may declare the entire amount of Rent and other charges and sums payable by Tenant hereunder which in Landlord's reasonable determination would become due and payable during the remainder of the Lease Term (including, without limitation, increases in Rent for which this Lease provides), discounted to present value by using a discount factor equal to ten percent (10%) per annum, to be due and payable immediately. Upon the acceleration of such amounts, Tenant agrees to pay the same at once, together with all Rent and other charges and sums theretofore payable by Tenant hereunder, at Landlord's address as provided herein; provided, however, that such payment shall not constitute a penalty or forfeiture but shall constitute liquidated damages for Tenant's failure to comply with the terms and provisions of this Lease (Landlord and Tenant agree that Landlord's actual damages in such event are impossible to ascertain and that the amount set forth above is a reasonable estimate thereof).

(c) Pursuit of any of the foregoing remedies by Landlord shall not preclude pursuit of any other remedy herein provided or any other remedy provided by law or at equity, nor shall pursuit of any remedy herein provided constitute an election of remedies thereby excluding the later election of an alternate remedy, or a forfeiture or waiver of any Rent or other charges and sums payable by Tenant and due to Landlord hereunder or of any damages accruing by reason of violation of any of the terms, covenants, warranties and provisions herein contained. No re-entry or taking possession of the Demised Premises by Landlord or any other action taken by or on behalf of Landlord shall be construed to be an acceptance of a surrender of this Lease or an election by Landlord to terminate this Lease unless written notice of such intention is given to Tenant. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such event of default. In determining the amount of loss or damage which Landlord may suffer by reason of termination of this Lease or the deficiency arising by reason of any re-letting of

the Demised Premises by Landlord as above provided, allowance shall be made for the expense of repossession. Tenant agrees to pay to Landlord all costs and expenses incurred by Landlord in the enforcement of this Lease, including, without limitation, the fees of Landlord's attorneys as provided in Section 22 hereof.

17. Waiver of Breach. No waiver of any breach of any of the covenants, warranties, agreements, provisions, or conditions contained in this Lease shall be construed as a waiver of said covenant, warranty, provision, agreement or condition or of any subsequent breach thereof, and if any breach shall occur and afterwards be compromised, settled or adjusted, this Lease shall continue in full force and effect as if no breach had occurred.

18. Assignment or Subletting.

(a) Tenant shall not, without prior written consent of Landlord, assign this Lease or any interest herein or in the Demised Premises, or mortgage, pledge, encumber, hypothecate or otherwise transfer or sublet the Demised Premises or any part thereof or permit the use of the Demised Premises by any party other than Tenant. Consent to one or more such transfers or subleases shall not destroy or waive this provision, and all subsequent transfers and subleases shall likewise be made only upon obtaining the prior written consent of Landlord. Without limiting the foregoing prohibition, in no event shall Tenant assign this Lease or any interest herein, whether directly, indirectly or by operation of law, or sublet the Demised Premises or any part thereof or permit the use of Demised Premises or any part thereof by any party, if such proposed assignment, subletting or use would contravene any restrictive covenant (including any exclusive use) granted to any other tenant of the Building or would contravene the provisions of Section 10 hereof. Sublessees or transferees of the Demised Premises for the balance of the Lease Term shall become directly liable to Landlord for all obligations of Tenant hereunder, without relieving Tenant (or any guarantor of Tenant's obligations hereunder) of any liability therefor, and Tenant shall remain obligated for all liability to Landlord arising under this Lease during the entire remaining Lease Term including any extensions thereof, whether or not authorized herein. If Tenant is a partnership, a withdrawal or change, whether voluntary, involuntary or by operation of law, of partners owning a controlling interest in Tenant shall be deemed a voluntary assignment of this Lease and subject to the foregoing provisions. If Tenant is a corporation or limited liability company, any dissolution or merger in which Tenant is not the surviving corporation shall be deemed a voluntary assignment of the Lease and subject to the foregoing provisions. Landlord may, as a prior condition to considering any request for consent to an assignment or sublease, require Tenant to obtain and submit current financial statements of any proposed sublessee or assignee and such other financial documentation relative to the proposed sublessee or assignee as Landlord may reasonably require. In the event Landlord consents to an assignment or sublease, Tenant shall pay to Landlord a fee to cover Landlord's accounting costs plus any legal fees incurred by Landlord as a result of the assignment or sublease, and such fee shall not exceed $500.00. The consent of Landlord to any proposed assignment or sublease may not be unreasonably withheld or delayed. Fifty Percent (50%) of any consideration, in excess of the Rent and other charges and sums due and payable by Tenant under this Lease, paid to Tenant by any assignee of this Lease for its assignment, or by any sublessee under or in connection with

its sublease, or otherwise paid to Tenant by another party for use and occupancy of the Demised Premises or any portion thereof (net of Tenant's cost of such sublease, including, without limitation, commissions, tenant improvements and legal fees), shall be promptly remitted by Tenant to Landlord as additional Rent hereunder and Tenant shall have no right or claim thereto against Landlord. No assignment of this Lease consented to by Landlord shall be effective unless and until Landlord shall receive an original assignment and assumption agreement, in form and substance satisfactory to Landlord, signed by Tenant and Tenant's proposed assignee, whereby the assignee assumes due performance of this Lease to be done and performed for the balance of the then remaining Lease Term. No subletting of the Demised Premises, or any part thereof, shall be effective unless and until there shall have been delivered to Landlord an agreement, in form and substance satisfactory to Landlord, signed by Tenant and the proposed sublessee, whereby the sublessee acknowledges the right of Landlord to continue or terminate any sublease, in Landlord's sole discretion, upon termination of this Lease, and such sublessee agrees to recognize and attorn to Landlord in the event that Landlord under such circumstances agrees to continue such sublease. Upon Landlord's receipt of request by Tenant to assign this Lease or any interest herein or in the use of the Demised Premises by any party other than Tenant, Landlord shall have the right, at Landlord's option, to exercise in writing any of the following options: (i) to terminate this Lease as to the portion of the Demised Premises proposed to be assigned or sublet; (ii) to consent to the proposed assignment or sublease, subject to the other terms and conditions set forth in this Section 18; or (iii) to reasonably refuse to consent to the proposed assignment or sublease.

(b) In determining the reasonableness of Landlord's refusal to consent to Tenant's proposed assignment of this Lease or subleasing of the Demised Premises, Landlord may take into consideration all relevant factors with respect to the proposed assignment or sublease, including, without limitation, the following:

(i) The business reputation of the proposed assignee or sublessee and its partners, officers, stockholders or other equity owners;

(ii) The nature of the business and the proposed use of the Demised Premises by the proposed assignee or sublessee;

(iii) The financial condition of the proposed assignee or sublessee;

(iv) The effect that the proposed assignee or sublessee would have on the operations and management of the Building and Landlord's investment therein;

(v) Whether or not the proposed assignee or sublessee is reputable and of a kind customarily found in a same-class office building as the Building;

(vi) Whether or not the proposed assignee or sublessee is presently a tenant (or subsidiary or successor of a tenant) in the Building;

(vii) Restrictions, if any, contained in other leases or agreements affecting the Building;

(viii) The extent to which the proposed assignee or sublessee and Tenant provide Landlord security reasonably satisfactory to Landlord as to the satisfaction of Tenant's obligations hereunder, including, without limitation, the payment of Rent;

(ix) Restrictions, if any, imposed by the holder of any mortgage encumbering the Demised Premises or any portion thereof; and

(x) Whether or not the proposed assignee or sublessee is willing to agree in the assignment of lease agreement or sublease agreement, as the case may be, to comply, at its expense, with all laws, ordinances, orders, discretions, requirements, rules and regulations of all governmental authorities then in force and which may thereafter be in force, which impose any duty on Landlord or the assignee or sublessee, as the case may be, with respect to the use, occupancy or alteration of the Demised Premises or any portion thereof.

19. Destruction.

(a) If the Demised Premises are damaged by fire or other casualty, the same shall be repaired or rebuilt as speedily as practical under the circumstances at the expense of Landlord, unless this Lease is terminated as provided in this Section 19, and during the period required for restoration, a just and proportionate part of the Base Rental shall be abated until the Demised Premises are repaired or rebuilt; provided, however, that (i) if the damage is caused by the act or omission of Tenant or any of its officers, contractors, subcontractors, agents, representatives or employees, the Base Rental shall not abate, and (ii) Landlord shall have no obligation to repair or restore any damage to trade fixtures, furniture and other personal property of, or leasehold improvements completed by, Tenant.

(b) In the event that (i) the Demised Premises are damaged to such an extent that repairs cannot, in Landlord's reasonable judgment, be completed within ninety (90) days after the date of the commencement of repair of the casualty, (ii) the Demised Premises are damaged or destroyed as a result of a risk which is not insured under the insurance policies required hereunder, (iii) the Demised Premises are damaged or destroyed during the last twelve (12) months of the Lease Term, or (iv) the Building is damaged in whole or in part (whether or not the Demised Premises are damaged) to such an extent that the Building cannot, in Landlord's reasonable judgment, be operated economically as an integral unit, then and in any such event Landlord may at its option terminate this Lease by notice in writing to Tenant within thirty (30) days after the date of such casualty. If the Demised Premises are damaged to such an extent that repairs cannot, in Landlord's reasonable judgment, be completed within ninety (90) days after the date of the commencement of the repair of the casualty, or if the Demised Premises are substantially damaged during the last twelve (12) months of the Lease Term, then in any such event Tenant may elect to terminate this Lease by notice in writing to Landlord

within fifteen (15) days after the date of such casualty; provided, however, that if the damage is caused by the act or omission of Tenant or any of its officers, contractors, subcontractors, agents, representatives or employees, Tenant shall not have the right to elect to terminate this Lease. Unless Landlord or Tenant elects to terminate this Lease as hereinabove provided, this Lease will remain in full force and effect and Landlord shall repair such damage at its expense to the extent required under Section 19(c) hereof as expeditiously as possible under the circumstances.

(c) If Landlord should elect or be obligated pursuant to Section 19(a) hereof to repair or rebuild because of any damage or destruction, Landlord's obligation shall be limited to the original Building and any other work or improvements which were originally performed or installed at Landlord's expense. If the cost of performing such repairs exceeds the actual proceeds of insurance paid or payable to Landlord on account of such casualty, or if Landlord's mortgagee or the lessor under a ground or underlying lease shall require that any insurance proceeds from a casualty loss be paid to it, Landlord may terminate this Lease.

(d) In no event shall Landlord be liable for any loss or damage sustained by Tenant by reason of any casualty to the Demised Premises or any portion thereof.

20. Landlord's Lien. Landlord shall at all times have a valid lien upon all of the personal property of Tenant situated in the Demised Premises to secure payment of Rent and other sums and charges due hereunder from Tenant to Landlord and to secure the performance by Tenant of each and all of the covenants, warranties, agreements and conditions hereof. Said personal property shall not be removed from the Demised Premises without the consent of Landlord until all arrearage in Rent and other charges as well as any and all other sums of money due hereunder shall first have been paid and discharged and until this Lease and all of the covenants, conditions, agreements and provisions hereof have been fully performed by Tenant. Tenant shall from time to time execute any financing statements and other instruments necessary to perfect the security interest granted herein. The lien hereunder granted may be foreclosed in the manner and form provided by law for the foreclosure of security instruments or chattel mortgages, or in any other manner provided by law. This Lease is intended as and constitutes a security agreement within the meaning of the Uniform Commercial Code of the State of Tennessee.

21. Services by Landlord. Landlord shall provide the Building Standard Services described in Exhibit D hereto and the parking as described in Exhibit E hereto.

22. Attorneys' Fees. If Landlord uses the services of any attorney in order to secure compliance with any other provision of this Lease, to recover damages for any breach or default of any other provision of this Lease, or to terminate this Lease or evict Tenant, Tenant shall reimburse Landlord upon demand for any and all attorneys' fees and expenses so incurred by Landlord. Tenant waives all homestead rights and exemptions which it may have under any law against any obligation owing under this Lease, and Tenant assigns to Landlord its homestead and exemptions to the extent necessary to secure payment and performance of its covenants and agreements hereunder.

23. Time. Time is of the essence of this Lease and whenever a certain day is stated for payment or performance of any obligation of Tenant or Landlord, the same enters into and becomes a part of the consideration hereof.

24. Subordination and Attornment.

(a) Landlord and Tenant agree that this Lease and all rights of Tenant hereunder are and shall be subject and subordinate to any ground or underlying lease which may now or hereafter be in effect regarding the Demised Premises or any portion thereof, to any mortgage now or hereafter encumbering the Demised Premises or any portion thereof, to all advances made or hereafter to be made upon the security of any such mortgage, to all amendments, modifications, renewals, consolidations, extensions and restatements of any such mortgage or such ground or underlying lease, and to any replacements and substitutions for any such mortgage or ground or underlying lease. The term "mortgage", as used in this Lease, includes any deed to secure debt, deed of trust or security deed and any other instrument creating a lien in connection with any other method of financing or refinancing. The term "mortgagee", as used in this Lease, refers to the holder(s) of the indebtedness secured by a mortgage.

(b) If any mortgagee or lessee under a ground or underlying lease elects to have this Lease be superior to its mortgage or lease and signifies its election in the instrument creating its lien or lease or by separate recorded instrument, then this Lease shall be superior to such mortgage or lease, as the case may be.

(c) In the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under, any mortgage covering the Demised Premises or any portion thereof, or in the event the interests of Landlord under this Lease shall be transferred by reason of deed in lieu of foreclosure or other legal proceedings, or in the event of termination of any lease under which Landlord may hold title to the Demised Premises or any portion thereof, Tenant shall attorn to the transferee or purchaser at foreclosure or under power of sale, or the lessor of Landlord upon such lease termination, as the case may be (sometimes hereinafter called a "Successor") and shall recognize and be bound and obligated hereunder to such Successor as landlord under this Lease; provided, however, that no such Successor shall be (i) bound by any payment of Rent for more than one (1) month in advance, except prepayments in the nature of security for the performance by Tenant of its obligations under this Lease (and then only if such prepayments have been deposited with and are under the control of such Successor); (ii) bound by any amendment or modification of this Lease made without the express written consent of the mortgagee or lessor of Landlord, as the case may be; (iii) obligated to cure any defaults under this Lease of any prior landlord (including Landlord) except to the extent constituting a continuing default; (iv) liable for any act or omission of any prior landlord (including Landlord); (v) subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord); or (vi) bound by any warranty or representation of any prior landlord (including Landlord) relating to work performed by any prior landlord (including Landlord) under this Lease. Tenant agrees to execute any attornment agreement not in conflict herewith requested by Landlord, the mortgagee or such person. Tenant's obligation to attorn to such person shall survive the

exercise of any such power of sale, foreclosure or other proceeding. Tenant agrees that the institution of any suit, action or other proceeding by any mortgagee to realize on Landlord's interest in the Demised Premises or any portion thereof pursuant to the powers granted to such mortgagee under its mortgage, shall not, by operation of law or otherwise, result in the cancellation or termination of the obligations of Tenant hereunder. Landlord and Tenant agree that, notwithstanding that this Lease is expressly subject and subordinate to any mortgages, any mortgagee, its successors and assigns, or other holder of a mortgage or of a note secured thereby, may sell the Demised Premises or any portion thereof in the manner provided in such mortgage and may, at the option of such mortgagee, its successors and assigns, or other holder of such mortgage or the note secured thereby, make such sale of the Demised Premises or any portion thereof subject to this Lease.

25. Estoppel Certificates. Within ten (10) business days after request therefor by Landlord, Tenant agrees to execute and deliver to Landlord in recordable form an estoppel certificate addressed to Landlord, any mortgagee or assignee of Landlord's interest in, or purchaser of, the Demised Premises or any portion thereof certifying (if such be the case) that this Lease is unmodified and is in full force and effect (and if there have been modifications, that the same is in full force and effect as modified and stating said modifications); that there are no defenses or offsets against the enforcement thereof or stating those claimed by Tenant; and stating the date to which Rent and other charges have been paid. Such certificate shall also include such other information as may reasonably be required by such mortgagee, proposed mortgagee, assignee, purchaser or Landlord. Any such certificate may be relied upon by Landlord, any mortgagee, proposed mortgagee, assignee, purchaser and any other party to whom such certificate is addressed.

26. No Estate. This Lease shall create the relationship of landlord and tenant only between Landlord and Tenant and no estate shall pass out of Landlord. Tenant shall have only an usufruct, not subject to levy and sale and not assignable in whole or in part by Tenant except as herein provided.

27. Cumulative Rights. All rights, powers and privileges conferred hereunder upon the parties hereto shall be cumulative to, but not restrictive of, or in lieu of those conferred by law.

28. Holding Over. If Tenant remains in possession after expiration or termination of the Lease Term with or without Landlord's written consent, Tenant shall become a tenant at sufferance, and there shall be no renewal of this Lease by operation of law. During the period of any such holding over, all provisions of this Lease shall be and remain in effect except that the monthly rental shall be one hundred fifty percent (150%) of the amount of Rent (including any adjustments provided herein) payable for the last full calendar month of the Lease Term. The inclusion of the preceding sentence in this Lease shall not be construed as Landlord's consent for Tenant to hold over. In addition, upon the expiration of the Lease Term, Tenant shall be liable for and pay to Landlord, all damages, consequential as well as direct, sustained by reason of Tenant's holding over beyond the expiration of the Lease Term.

29. Surrender of Premises. Upon the expiration or termination of this Lease, Tenant shall quit and surrender to Landlord the Demised Premises and every part thereof and all alterations, additions and improvements thereto, broom clean and in good condition and state of repair, reasonable wear and tear and insured casualty only accepted. If Tenant is not then in default, Tenant shall remove all personalty and equipment not attached to the Demised Premises which it has placed upon the Demised Premises, and Tenant shall restore the Demised Premises to the condition immediately preceding the time of placement thereof. If Tenant shall fail or refuse to remove all of Tenant's personalty and equipment from the Demised Premises upon the expiration or termination of this Lease for any cause whatsoever or upon Tenant's being dispossessed by process of law or otherwise, such personalty and equipment shall be deemed conclusively to be abandoned and may be appropriated, sold, stored, destroyed or otherwise disposed of by Landlord without written notice to Tenant or any other party and without obligation to account for them. Tenant shall pay Landlord on demand any and all expenses incurred by Landlord in the removal of such personalty and equipment, including, without limitation, the cost of repairing any damage to the Demised Premises caused by the removal of such personalty and equipment and storage charges (if Landlord elects to store any of such personalty and equipment). The covenants and conditions of this Section 29 shall survive the expiration or termination of this Lease.

30. Notices. All notices required or permitted to be given hereunder shall be in writing and shall be deemed to have been fully given, whether actually received or not, when deposited, postage prepaid, in the United States Mail, certified, return receipt requested, and addressed to Landlord or Tenant at their respective addresses set forth in Section 1 hereof or at such other address as either party shall have theretofore given to the other by notice herein provided.

31. Damage or Theft of Personal Property. All personal property brought into the Demised Premises by Tenant, or Tenant's employees, agents or business visitors, shall be at the risk of Tenant only. Landlord shall not be liable for theft thereof or any damage thereto occasioned by any act of co-tenants, occupants, invitees or other users of the Demised Premises or any other person. Landlord shall not be at any time be liable for damage to any such property.

32. Eminent Domain.

(a) If all or part of the Demised Premises shall be taken for any public or quasi-public use by virtue of the exercise of the power of eminent domain or by private purchase in lieu thereof, this Lease shall terminate as to the part so taken as of the date of taking, and, in the case of a partial taking, either Landlord or Tenant shall have the right to terminate this Lease as to the balance of the Demised Premises by written notice to the other within thirty (30) days after such date; provided, however, that a condition to the exercise by Tenant of such right to terminate shall be that the portion of the Demised Premises taken shall be of such extent and nature as substantially to handicap, impede or impair Tenant's use of the balance of the Demised Premises. .

(b) If this Lease is terminated under the provisions of this Section 32, Rent shall be apportioned and adjusted as of the date of termination. Tenant shall have no

claim against Landlord or against the condemning authority for the value of any leasehold estate or for the value of the unexpired Lease Term.

(c) If there is a partial taking of any portion of the Demised Premises and this Lease is not thereupon terminated under the provisions of this Section 32, then this Lease shall remain in full force and effect, and Landlord shall, within a reasonable time thereafter, repair or reconstruct any affected portion of Building to the extent necessary to make the same a complete architectural unit; provided, however, that in complying with its obligations hereunder, Landlord shall not be required to expend more than the net proceeds of the condemnation award which are paid to Landlord.

(d) All compensation awarded or paid to Landlord upon a total or partial taking of the Demised Premises or any portion thereof shall belong to and be the property of Landlord without any participation by Tenant. Nothing herein shall be construed to preclude Tenant from prosecuting any claim directly against the condemning authority for loss of business, for damage to, and cost of removal of, trade fixtures, furniture and other personal property belonging to Tenant, and for the unamortized cost of leasehold improvements to the extent the same were installed at Tenant's expense; provided, however, that no such claim shall diminish or adversely affect Landlord's award.

(e) Notwithstanding anything to the contrary contained in this Section 32, if, during the Lease Term, the use, occupancy or physical access to the Demised Premises shall be taken or appropriated temporarily for any public or quasi-public purpose under any governmental law, ordinance or regulation, or by right of eminent domain, this Lease shall be and remain unaffected by such taking or appropriation and Tenant shall continue to pay in full all Rent payable hereunder by Tenant during the Lease Term. In the event of any such temporary appropriation or taking, Tenant shall be entitled to receive that portion of any award which represents compensation for the loss of use or occupancy of the Demised Premises during the Lease Term and Landlord shall be entitled to receive that portion of any award which represents the cost of restoration and compensation for the loss of use or occupancy of the Demised Premises after the end of the Lease Term.

33. Parties. The term "Landlord", as used in this Lease, shall include Landlord and its successors and assigns. It is hereby covenanted and agreed by Tenant that should Landlord's interest in the Demised Premises cease to exist for any reason during the Lease Term, then notwithstanding the happening of such event, this Lease nevertheless shall remain in full force and effect, and Tenant hereby agrees to attorn to the then owner of the Demised Premises. The term "Tenant" shall include Tenant and its heirs, legal representatives, successors and its assignees and sublessees to the extent permitted hereunder. In addition, Landlord and Tenant covenant and agree that Landlord's right to sell, transfer or assign Landlord's interest in and to the Demised Premises, or any part or parts thereof, shall be unrestricted, and that in the event of any such sale, transfer or assignment by Landlord which includes the Demised Premises, Landlord's obligations to Tenant hereunder shall cease and terminate, and Tenant shall look only and solely to Landlord's assignee or transferee for performance thereof.

34. Indemnification by Tenant. Tenant hereby agrees to defend, indemnify and hold harmless Landlord and The Metropolitan Nashville Airport Authority (the "Authority"), and

their respective commissioners, members, managers, officers, employees, agents, representatives, affiliates, subsidiaries, successors and assigns, from and against any and all liability, loss, cost, damage or expense, including, without limitation, court costs and reasonable attorneys' fees, to the extent caused in whole or in part by any act or omission of Tenant, or any of its employees, contractors, servants, agents, sublessees, assignees, representatives or invitees, or otherwise occurring in connection with any default of Tenant hereunder. The provisions of this Section 34 shall survive the expiration or termination of this Lease.

35. Force Majeure. In the event of strike, lockout, labor trouble, civil commotion, act of God or any other cause beyond a party's control (a "Force Majeure") resulting in Landlord's inability to supply the services or perform the other obligations required of Landlord hereunder, this Lease shall not terminate and Tenant's obligation to pay Rent and all other charges and sums due and payable by Tenant shall not be affected or excused and Landlord shall not be considered to be in default under this Lease. If, as a result of a Force Majeure, Tenant is delayed in performing any of its obligations under this Lease, other than Tenant's obligation to take possession of the Demised Premises on or before the Rental Commencement Date and to pay Rent and all other charges and sums payable by Tenant hereunder, Tenant's performance shall be excused for a period equal to such delay and Tenant shall not during such period be considered to be in default under this Lease with respect to the obligation, the performance of which has thus been delayed.

36. Limitation on Landlord's Liability. Neither Landlord nor any of its members, managers, officers, employees, successors or assigns shall have any personal liability with respect to any of the provisions of this Lease or for any damage (including indirect and consequential damages), injury, loss, compensation or claim, including but not limited to, claims for the interruption of or loss to Tenant's business, based on, arising out of or resulting from any cause whatsoever. If Landlord is in default with respect to its obligations under this Lease, Tenant shall look solely to the equity of Landlord in and to the Demised Premises for satisfaction of Tenant's remedies, if any. It is expressly understood and agreed that Landlord's liability under the terms of this Lease shall in no event exceed the amount of its interest in and to the Demised Premises.

In the event that at any time during the Lease Term Tenant shall have a claim against Landlord, Tenant shall not have the right to set off or deduct the amount owed or allegedly owed to Tenant from any Rent or other sums payable to Landlord, it being understood that Tenant's sole remedy for recovering upon a claim shall be to institute an independent action against Landlord.

37. Landlord's Covenant of Quiet Enjoyment. Provided Tenant performs the terms, conditions and covenants of this Lease, and subject to the terms and provisions hereof, Landlord covenants and agrees to take all necessary steps to provide for the benefit of Tenant the quiet and peaceful possession of the Demised Premises, for the Lease Term, without hindrance, claim or molestation by Landlord or any other person or entity lawfully claiming under Landlord.

38. Hazardous Substances.

(a) Tenant hereby covenants and agrees that Tenant shall not cause or knowingly permit any Hazardous Substances (as herein defined) to be generated, placed, held, stored, used, located or disposed of at the Demised Premises or any part thereof, except for Hazardous Substances as are commonly and legally used or stored as a consequence of using the Demised Premises for its permitted use, but only so long as the same are stored, handled and disposed of strictly in compliance with all applicable laws and governmental rules and regulations relating thereto.

(b) Landlord represents and warrants that, to the best of his knowledge, the underlying soil, Building, and Premises are free of environmental contaminants and toxic materials and compliant with all laws related to environmental conditions and toxic materials. It shall be the responsibility of Landlord, at its sole cost and expense, to remove any toxic materials prior to the Commencement Date.

(c) Tenant and its successors and assigns shall indemnify, defend, reimburse and hold harmless Landlord and Authority, and their respective commissioners, members, managers, officers, employees, agents, representatives, affiliates, subsidiaries, successors and assigns, from and against any and all losses, liabilities, including, without limitation, strict liability, damages, injuries and expenses (including, without limitation, reasonable attorneys' fees, costs of settlement or judgment and claims of any and every kind whatsoever) paid, incurred or suffered by, or asserted against, Landlord or Authority, or any of their respective commissioners, members, managers, officers, employees, agents, representatives, affiliates, subsidiaries, successors or assigns, by any person, entity or governmental agency for, with respect to, or as a direct or indirect result of, the presence in, or the escape, leakage, spillage, discharge, emission or release from, the Demised Premises of any Hazardous Substances (including, without limitation, any losses, liabilities, strict liability, damages, injuries, expenses (including, without limitation, reasonable attorneys' fees, costs of settlement or judgment and claims of any and every kind whatsoever) asserted or arising under any Environmental Laws (as herein defined)); provided, however, that the foregoing indemnity is limited to matters arising solely from Tenant's violation of the covenants and agreements of Tenant contained in this Section 38. The obligations of Tenant under this Section 38 shall survive the expiration or termination of this Lease.

(d) For purposes of this Lease, "Hazardous Substances" means and includes any and all substances, materials, wastes, pollutants, oils or governmentally regulated substances or contaminants defined or designated as hazardous, toxic, radioactive, dangerous or any other similar term in or under any of the Environmental Laws, including, without limitation, asbestos and asbestos-containing materials, petroleum products (such as crude oil or any fraction thereof, gasoline, aviation fuel, jet fuel, diesel fuel, lubricating oils and solvents), urea formaldehyde, flammable explosives, PCBs, radioactive materials or waste, and any other substance that, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or threaten a present or potential hazard to human health or the environment when improperly generated, used, stored, handled, treated, discharged, distributed, disposed or released.

(e) For purposes of this Lease, "Environmental Laws" means all present and future applicable laws, ordinances, orders, directives, rules, codes and regulations of all governmental authorities, as the same may be amended, modified or updated from time to time, and applicable decisional law (including, without limitation, judicial or administrative interpretations, orders and judgments), which govern any Hazardous Substances or relate to the protection of human health, safety or the environment, and shall include, without limitation, the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136, *et seq.*; the Safe Drinking Water Act, 44 U.S.C. § 300f, *et seq.*; the Oil Pollution Act of 1990, 33 U.S.C. § 2701, *et seq.*; the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601, *et seq.*; the Superfund Amendments and Reauthorization Act of 1986, Pub. Law No. 99-499, 100 Stat. 1613; the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; the Clean Air Act, 42 U.S.C. § 7401, *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. § 5101, *et seq.*; and the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq.*, all as amended from time to time.

39. Submission of Lease. The submission of this Lease for examination does not constitute an offer to lease and this Lease shall be effective only upon execution hereof by Landlord and Tenant.

40. Severability. If any clause or provision of the Lease is illegal, invalid or unenforceable under present or future laws, the remainder of this Lease shall not be affected thereby, and in lieu of each clause or provision of this Lease which is illegal, invalid or unenforceable, there shall be added as a part of this Lease a clause or provision as nearly identical to the said clause or provision as may be legal, valid and enforceable.

41. Entire Agreement. This Lease (inclusive of all recitals, exhibits and other attachments hereto), contains the entire agreement of the parties with respect to the leasing of the Demised Premises and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. No failure of Landlord to exercise any power given Landlord hereunder, or to insist upon strict compliance by Tenant with any obligation of Tenant hereunder, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of Landlord's right to demand exact compliance with the terms hereof. This Lease may not be altered, waived, amended or extended except by an instrument in writing signed by Landlord and Tenant. This Lease is not in recordable form, and Tenant agrees not to record or cause to be recorded this Lease or any short form or memorandum hereof. Defined terms used in exhibits to this Lease and not otherwise defined therein shall have the meanings assigned to them in the remainder of this Lease.

42. Headings. The use of headings herein is solely for the convenience of indexing the various Sections hereof and shall in no event be considered in construing or interpreting any provision of this Lease.

43. Broker. Brokers are entitled to a leasing commission from Landlord by virtue of this Lease, which leasing commission shall be paid by Landlord to Brokers in accordance with the terms of a separate agreement between Landlord and Brokers. Tenant hereby authorizes

Brokers and Landlord to identify Tenant as a tenant of the Building and to state the amount of space leased by Tenant in advertisements and promotional materials relating to the Building. Tenant represents and warrants to Landlord that, except with respect to the Tenant Representative, no broker, agent, commission salesperson or other person has represented Tenant other than the Tenant Representative, in the negotiations for this Lease and that no commissions, fees or compensation of any kind are due and payable in connection herewith to any broker, agent, commission salesperson or other person as a result of any act or agreement of Tenant. Tenant agrees to indemnify and hold Landlord harmless from all loss, liability, damage, claim, judgment, cost or expense (including reasonable attorneys' fees and court costs) suffered or incurred by Landlord as a result of a breach by Tenant of the representation and warranty contained in the immediately preceding sentence or as a result of Tenant's failure to pay commissions, fees or compensation due to any broker who represented Tenant, whether or not disclosed, or as a result of any claim for any fee, commission or similar compensation with respect to this Lease made by any broker, agent or finder claiming to have dealt with Tenant, whether or not such claim is meritorious. Landlord represents and warrants to Tenant that no broker, agent, commission salesperson, or other person has represented Landlord in the negotiations for this Lease other than the Landlord Representative, and that, except with respect to the Landlord Representative, no commissions, fees or compensation of any kind are due and payable in connection herewith to any broker, agent, commission salesperson or other person as a result of any act or agreement of Landlord.

44. Governing Law. The laws of the State of Tennessee shall govern the performance and enforcement of this Lease.

45. Authority. If Tenant executes this Lease as a corporation, Tenant does hereby represent and warrant as follows: (i) it is duly incorporated and fully authorized and qualified to do business in the State of Tennessee; (ii) it has full right and authority to enter into this Lease; (iii) there are no consents or approvals required for Tenant to enter into and perform this Lease; and (iv) each person signing on behalf of Tenant represents and warrants that s/he is an officer of Tenant and is authorized to sign on behalf of Tenant. If Tenant signs as a partnership, joint venture or sole proprietorship or other business entity (each being herein called an "Entity"), each of the persons executing this Lease on behalf of Tenant does hereby represent and warrant as follows: (A) Tenant is a duly authorized and existing Entity; (B) it has full right and authority to enter into this Lease; (C) there are no consents or approvals required for Tenant to enter into and perform this Lease; and (D) all persons executing this Lease on behalf of Tenant are authorized to do so on behalf of Tenant, and such execution is fully binding upon Tenant and its partners, joint venturers or principals, as the case may be. Tenant agrees to promptly execute all necessary and reasonable applications or documents required by any jurisdiction in which the Demised Premises are located to permit the issuance of necessary permits and certificates for Tenant's use and occupancy of the Demised Premises.

46. Joint and Several Liability. If Tenant comprises more than one person, corporation or Entity, the liability hereunder of all such persons, corporations or Entities shall be joint and several.

47. Legal Interest and Other Charges. Notwithstanding any provision of this Lease to the contrary, it is the intent of Landlord and Tenant that Landlord shall not be entitled to receive,

collect, reserve or apply, as interest, any amount in excess of the maximum amount of interest permitted to be charged by applicable laws. In the event this Lease requires a payment of interest that exceeds the maximum amount of interest permitted under applicable laws, such interest shall not be received, collected, charged or reserved until such time as that interest, together with all other interest then payable, falls within the maximum amount of interest permitted to be charged under applicable laws. In the event Landlord receives any such interest in excess of the maximum amount of interest permitted to be charged under applicable laws, the amount that would be excessive interest shall be deemed a partial prepayment of Rent and treated under this Lease as such, or, if this Lease has expired or been terminated, any remaining excess funds shall immediately be paid to Tenant.

48. Avigation Easement. Tenant acknowledges and agrees that the Project is located on property leased by Landlord from Authority that is adjacent to the Nashville International Airport (the "Airport"). Landlord hereby reserves from the Demised Premises, for the use and benefit of itself and Authority and their successors and assigns, and the operators, owners and users of Aircraft (as herein defined) of all types and for the public in general, a perpetual easement and right-of-way for the free and unobstructed flight and passage of Aircraft ("Aircraft" being defined for the purposes of this Lease as any contrivance now known or hereafter invented, used or designed for navigation of or flight in or through the air) by whomsoever owned or operated, in and through the airspace above, over and across the surface of the Land, together with the right to cause in such airspace such noise, vibration, odors, vapors, particulates, smoke, dust and other effects as may be inherent in the operation of Aircraft for navigation of or flight or passage in and through such airspace, and for the use of such airspace by Aircraft for approaching, landing upon, taking off from, maneuvering about or operating at the Airport. This easement is reserved upon and subject to the following terms and conditions:

(a) Tenant shall not hereafter use, cause or permit to be used, or suffer use of, the Demised Premises so as: (i) to cause electrical, electronic or other interference with radio, radar, microwave or other similar means of communications between the Airport and any Aircraft; (ii) to adversely affect or impair the ability of operators of Aircraft to distinguish between regularly installed air navigation lights and visual aids and other lights serving the Airport; or (iii) to cause glare in the eyes of operators of Aircraft approaching or departing the Airport, or to impair visibility in the vicinity of the Airport, or to otherwise endanger the approaching, landing upon, taking off from, maneuvering about or operating of Aircraft on, above and about the Airport; and

(b) Tenant, for itself and its assigns, sublessees and legal representatives (collectively, the "Releasing Parties"), hereby expressly releases and forever discharges Authority and Landlord and their respective commissioners, members, managers, legal representatives, officers, assigns, associates, employees, agents and all others acting in concert with Authority or Landlord, from any and all claims, debts, liabilities, obligations, costs, expenses, actions or demands, vested or contingent, known or unknown, whether in tort, contract or otherwise, that the Releasing Parties may now own or hold, or have any time heretofore owned or held, or may at any other time own or hold, by reason of noises, vibration, odors, vapors, particulates, smoke, dust or other effects as may be inherent in the operation of Aircraft and caused or created by the flight

or passage of Aircraft in or through the airspace subject to the easement and right-of-way herein reserved.

49. Agreements Relating to Airport. This Lease is subject and subordinate to the provisions of any agreement heretofore or hereafter made between Authority and any other governmental authority relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to Authority for Airport purposes, or the expenditure of federal funds for the improvement or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as amended.

50. Lessor's Right to Relocate Tenant. Landlord may, at Landlord's expense, with six (6) months written notice prior to the commencement of any Renewal Term, if such Renewal Term occurs, relocate Tenant within the Building in space which is reasonably comparable in size to the Demised Premises and is reasonably suited for Tenant's use. If Landlord relocates Tenant, Landlord shall reimburse Tenant for Tenant's reasonable out-of-pocket expenses for moving Tenant's furniture, equipment and supplies from the Demised Premises to the relocation space and for reprinting Tenant's stationery of the same quality and quantity as Tenant's stationery supply on hand immediately before Landlord's notice to Tenant of the exercise of this relocation right. Upon such relocation, the relocation space shall be deemed to be the Demised Premises and the terms of this Lease shall remain in full force and shall apply to the relocation space.

51. Guaranty. Tenant hereby deposits with Landlord a stand-by, irrevocable letter of credit, surety bond, or cash (or any combination thereof) in a form and from a source acceptable to Landlord in the amount of One hundred and fifty-three thousand, nine hundred dollars ($153,900.00) as guaranty ("Guaranty") for the full, faithful and prompt performance of and compliance with, on the part of Tenant, all the conditions of this Lease and all the covenants, terms and conditions of any provision hereinafter entered into. The said Guaranty shall remain on deposit with Landlord throughout the term of this Lease except that the amount of such Guaranty shall be reduced each annual anniversary of the Lease Term to equal any unamortized leasehold improvement costs. The CEO of Insight Genetics will guaranty any unamortized Tenant Improvement Costs as set forth in Exhibit C and Exhibit F of this Lease agreement. The said Guaranty shall remain on deposit with Landlord throughout the term of this Lease. In addition to any and all other remedies available to it under any agreement or otherwise, Landlord shall have the right, at its sole option and at any time, to use the Guaranty or any part thereof in whole or partial satisfaction of any of its claims or demands against Tenant and for the payment of reasonable attorney's fees and other costs for the enforcement of any of its claims or demands against Tenant. There shall be no obligation of Landlord to exercise such right, and neither the existence of such right nor the holding of the Guaranty itself shall cure any default or breach on the part of Tenant. In the event that Landlord shall at any time or times so use the Guaranty or a part thereof, Tenant shall, on demand of Landlord and within two (2) days thereafter, deposit with Landlord additional cash so as to maintain the Guaranty at all times at the full amount stated above; all such additional deposits shall be subject to all the conditions of this Lease. Within thirty (30) days after the expiration of this Lease, Landlord will return the Guaranty to Tenant, less the amount of any and all unpaid claims and damages of the Landlord under this Lease Tenant agrees that it will not assign, mortgage or encumber the Guaranty. Tenant hereby

waives any rights to any interest which may be earned or accrued on its Guaranty during the term of this Lease or any extension or renewal hereof.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day, month and year first above written.

APPROVED AS TO FORM & LEGALITY:

Robert C. Watson, Esq.
Senior Vice President and CLO

LANDLORD:

MPC HOLDINGS, LLC, a Tennessee limited liability company

By: MNAA Properties Corporation, its sole member

By: _____

Title: PRESIDENT + CEO

TENANT:

INSIGHT GENETICS, INC.

By: _____

Title: Chief Executive Officer

FIRST AMENDMENT TO LEASE AGREEMENT

This **First Amendment to "Lease" Agreement** (the "First Amendment"), dated as of this____, day of June, 2013, is by and between MNAA Properties Corporation Holdings, LLC otherwise known as **MPC Holdings, LLC**, ("Landlord") and **Insight Genetics, Inc.**, otherwise known as ("Tenant").

RECITALS:

WHEREAS, Tenant and Landlord entered into a Lease Agreement dated January 10th, 2012 (hereby, the "Lease") and whereby "Tenant" leased approximately 4,102 rentable square feet at the International Plaza Office Building, within Suite #510 for a period of 87 months;
and

WHEREAS, Tenant and Landlord desire to expand into contiguous available lease space known as suite #507 which offers an additional 2,332 rentable square feet and is indicated in ("Exhibit A", attached);
and

WHEREAS, Tenant and Landlord desire to amend the Lease as set forth herein;
and

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt of which is hereby acknowledged, Tenant and Landlord hereby agree as follows:

1. The defined terms in the "Lease" shall have the same meanings herein unless specifically modified by this First Amendment.

2. The defined "Term" of this First "Lease" Amendment shall coincide with the current "Lease" term which began January 10th, 2012 and shall continue through to April 9th, 2019. There are no "Out Early Clauses" applicable for this first Lease Amendment.

3. Tenant shall be granted One (1), Five (5) year option to renew "Lease" with a 3% annually escalation to be applied throughout the term.

4. The Effective Date of this First "Lease" Amendment shall be; October 10th, 2013.

5. As of the Effective Date, "Term" shall mean the period immediately following the Effective Date.

6. The Tenant Improvement Allowances for the remaining Sixty Six (66) month lease "Term" are as follows;

- The total estimated construction cost for the customized "Turn Key Build-Out" comes to approximately $93,280.00.
- If actual construction costs come in higher or lower than the estimated amount listed above, the additional base rental fee of $1.43/rentable square foot will be adjusted accordingly.
- "Tenant" will be allowed to view bids received for the build-out of their expansion space.

- "Landlord" will award contracts at their discretion. It is common practice for "Landlord" to award contracts to their lowest bidders.
- "Landlord" will not pay for supplemental HVAC for high heat generating areas or devices.
- "Landlord" will not pay for direct emergency generator service supplied to any individual suites. Future emergency generator services shall be specifically designed and implemented for common areas including all fire/life & safety systems.
- "Tenant" has agreed to a $25,000 relocation fee associated with the needed relocation of the current tenant occupying the subject contiguous 2,332 rentable square foot space.
- A $5.00 per square foot annum TI Allowance shall be applied to a "Turn Key Build-Out" solution for expansion into the 2,332 rentable square foot area, which equates to approximately $64,130.00. (see agreed upon space plans attached, "Exhibit A")
- The total dollar amount of the "Turn Key Build-Out" after TI Allowance and relocation fee has been applied is approximately $54, 150.00.
- The $54,150.00 balance shall be recuperated by the "Landlord" by increasing the base rental fee by $1.43/rentable square foot on the entire "Lease Hold Space" square footage, which equates to 6,434 rentable square feet.
- The additional $1.43/rentable square foot will be subject to a 3% annual escalation rate throughout the remaining Sixty Six (66) months left on the lease "Term".

7. Upon the commencement date (October 10th, 2013), "Tenant" shall begin paying a Base Rental Rate equal to $17.86 per rentable square foot on the entire "Lease Hold Space" plus an annual 3% escalation rate which will be applied each anniversary of the effective date throughout the remainder of the "Term", as follows;

Time Period:	Rent/Square Foot:	Monthly Base Rent:
October 10, 2013 – October 9, 2014	$ 17.86	$ 9,575.94
October 10, 2014 – October 9, 2015	$ 18.40	$ 9,865.47
October 10, 2015 – October 9, 2016	$ 18.95	$ 10,160.36
October 10, 2016 – October 9, 2017	$ 19.52	$ 10,465.97
October 10, 2017 – October 9, 2018	$ 20.10	$ 10,776.95
October 10, 2018 – April 9, 2019	$ 20.70	$ 11,098.65

8. Subject to the modifications set forth in this First "Lease" Amendment, the "Lease" shall remain in full force and effect without modification.

9. This "First Amendment" may be executed as a counterpart, as was the "First Amendment" all of which together shall constitute one and the same "Lease" agreement. Execution of this "First Amendment" may be evidenced by signature of this original document by both parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day, month and year first above written.

LANDLORD:

MPC HOLDINGS, LLC, a Tennessee limited liability company

By: MNAA Properties Corporation, its sole member

By:_____

Title:_____

APPROVED AS TO FORM & LEGALITY:

_____
Robert C. Watson, Esq.,
Sr. Vice President & CLO

SUFFICIENCY OF FUNDS:

_____
Stan Van Ostran
Vice President & CFO

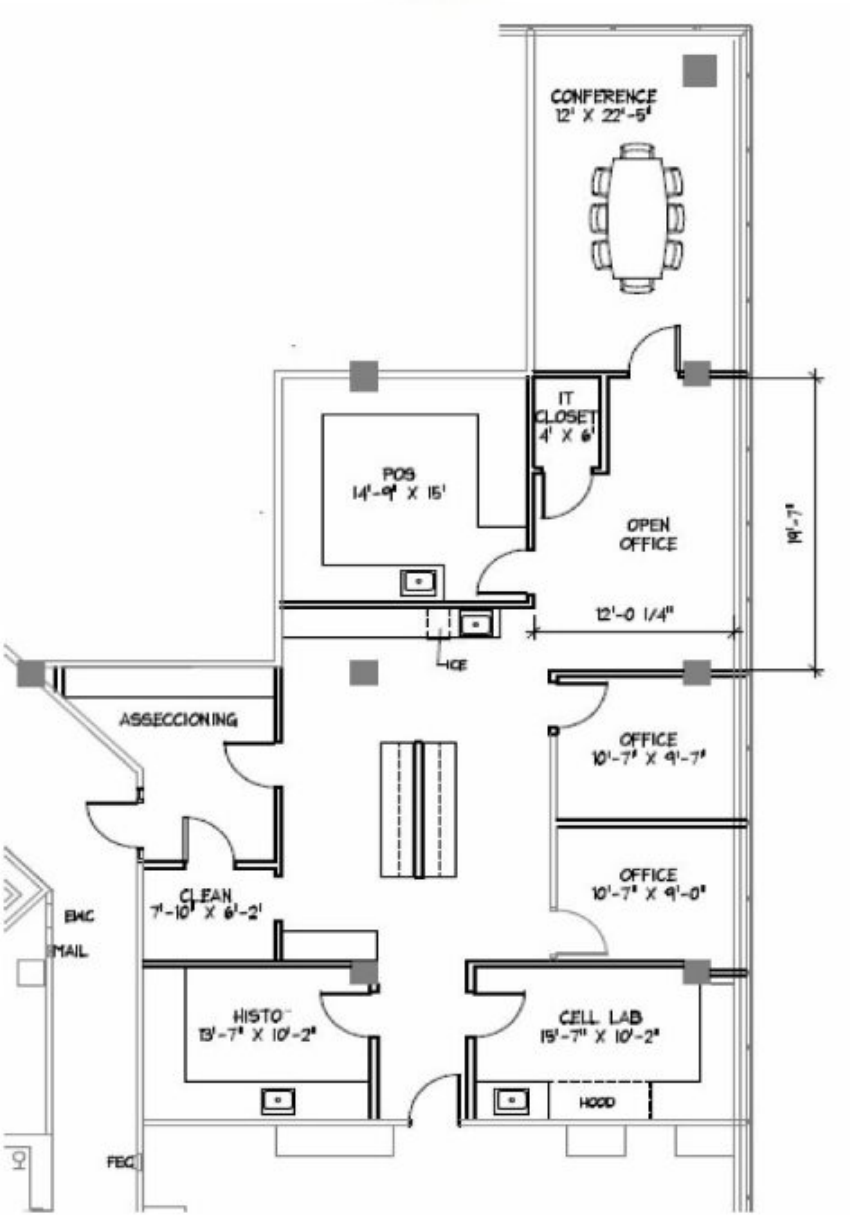
TENANT:

INSIGHT GENETICS, INC.

By:_____

Title:_____

"Exhibit A"


CONFERENCE
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CLOSET
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OPEN
OFFICE
19'-7"
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OFFICE
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CLEAN
7'-10" X 6'-2"
EMC
MAIL
HISTO
13'-7" X 10'-2"
CELL LAB
15'-7" X 10'-2"
HOOD
FEC

INSIGHT GENETICS

January 3, 2019

John Canova CM, CPM
MPC Holdings, LLC
One Terminal Drive, Suite 501
Nashville, TN 37214

Re: Lease Renewal Election by Insight Genetics, Inc.

Dear John,

This is formal 90 day advance written notification that Insight Genetics is exercising the Renewal Term for an additional five years per Article 4. "Renewals" in our Lease, which has an initial lease term ending on April 9th 2019.

We greatly appreciate all of your past assistance, and look forward to remaining a tenant here at 2 International Plaza.

Sincerely,

Eric B. Dahlhauser
Chief Executive Officer

2 International Plaza Drive, Suite 510 | Nashville, Tennessee 37217 | T 615.255.8880 F 615.255.1330
www.insightgenetics.com

Exhibit 10.35

ONCOCYTE CORPORATION

CHANGE IN CONTROL AND SEVERANCE PLAN

AND

SUMMARY PLAN DESCRIPTION

Plan Effective Date: March 1, 2020

ONCOCYTE CORPORATION
CHANGE IN CONTROL SEVERANCE PLAN
AND
SUMMARY PLAN DESCRIPTION

The Oncocyte Corporation Change in Control and Severance Plan (the "**Plan**") provides change in control and/or severance benefits to a select group of management or highly compensated employees of Oncocyte Corporation, a California corporation (the "**Company**"). The Plan is effective for eligible employees who receive and execute a Change in Control and Severance Agreement (an "**Agreement**") and who otherwise satisfy the conditions set forth in such Agreement and the provisions of this Plan ("**Covered Employees**").

This Plan is designed to be an "employee welfare benefit plan," as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"). This Plan is governed by ERISA and, to the extent applicable, the laws of the State of California, without reference to the conflict of law provisions thereof.

This document and your Agreement constitute both the official plan document and the required summary plan description under ERISA.

I. ELIGIBILITY

You will become a Covered Employee participant in the Plan only if you: (i) are selected by the Company to be eligible to participate in this Plan; (ii) receive and sign the Agreement (attached hereto as Exhibit A) indicating your agreement to be bound by the terms of this Plan and the Agreement; and (iii) timely return such signed Agreement to the Company.

II. BENEFITS

If you are a Covered Employee, you shall be eligible for change in control and/or severance benefits at such times and in such amounts as may be specified in your Agreement.

III. OTHER IMPORTANT INFORMATION

A. Plan Administration. As the Plan Administrator, the Company has the full and sole discretionary authority to administer and interpret the Plan, including discretionary authority to determine eligibility for participation in and for benefits under the Plan, to determine the amount of benefits (if any) payable per participant, and to interpret any terms of this document. All determinations by the Plan Administrator will be final and conclusive upon all persons and be given the maximum possible deference allowed by law. The Plan Administrator is the "named fiduciary" of the Plan for purposes of ERISA and will be subject to the applicable fiduciary standards of ERISA when acting in such capacity. The Company may delegate in writing to any other person all or a portion of its authority or responsibility with respect to the Plan.

B. Source of Benefits. The Plan is unfunded, and all benefits will be paid from the general assets of the Company or its successor. No contributions are required under the Plan.

C. Claims Procedure. If you are a Covered Employee and believe you have been incorrectly denied a benefit or are entitled to a greater benefit than the benefit you received under the Plan, you may submit a signed, written application to the Company's Chief Operating Officer ("**Claims Administrator**"). You will be notified in writing of the approval or denial of this claim within ninety (90) days of the date that the Claims Administrator receives the claim, unless special circumstances require an extension of time for processing the claim. In the event an extension is necessary, you will be provided written notice prior to the end of the initial ninety (90) day period indicating the special circumstances requiring the extension and the date by which the Claims Administrator expects to notify you of approval or denial of the claim. In no event will an extension extend beyond ninety (90) days after the end of the initial ninety (90) day period. If your claim is denied, the written notification will state specific reasons for the denial, make specific reference to the Plan provision(s) on which the denial is based, and provide a description of any material or information necessary for you to perfect the claim and why such material or information is necessary. The written notification will also provide a description of the Plan's review procedures and the applicable time limits, including a statement of your right to bring a civil suit under section 502(a) of ERISA following denial of your claim on review.

You will have sixty (60) days from receipt of the written notification of the denial of your claim to file a signed, written request for a full and fair review of the denial by a review panel which will be a named fiduciary of the Plan for purposes of such review. This request should include the reasons you are requesting a review and may include facts supporting your request and any other relevant comments, documents, records and other information relating to your claim. Upon request and free of charge, you will be provided with reasonable access to, and copies of, all documents, records and other information relevant to your claim, including any document, record or other information that was relied upon in, or submitted, considered or generated in the course of, denying your claim. A final, written determination of your eligibility for benefits shall be made within sixty (60) days of receipt of your request for review, unless special circumstances require an extension of time for processing the claim, in which case you will be provided written notice of the reasons for the delay within the initial sixty (60) day period and the date by which you should expect notification of approval or denial of your claim. This review will take into account all comments, documents, records and other information submitted by you relating to your claim, whether or not submitted or considered in the initial review of your claim. In no event will an extension extend beyond sixty (60) days after the end of the initial sixty (60) day period. If an extension is required because you fail to submit information that is necessary to decide your claim, the period for making the benefit determination on review will be tolled from the date the notice of extension is sent to you until the date on which you respond to the request for additional information. If your claim is denied on review, the written notification will state specific reasons for the denial, make specific reference to the Plan provision(s) on which the denial is based and state that you are entitled to receive upon request, and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to your claim, including any document, record or other information that was relied upon in, or submitted, considered or generated in the course of, denying your claim. The written notification will also include a statement of your right to bring an action under section 502(a) of ERISA.

If your claim is initially denied or is denied upon review, you are entitled to receive upon request, and free of charge, reasonable access to, and copies of, any document, record or other information that demonstrates that (1) your claim was denied in accordance with the terms of the Plan, and (2) the provisions of the Plan have been consistently applied to similarly situated Plan participants, if any. In pursuing any of your rights set forth in this section, your authorized representative may act on your behalf.

If you do not receive notice within the time periods described above, whether on initial determination or review, you may initiate a lawsuit under Section 502(a) of ERISA.

D. Prior Plans Superseded. The Plan supersedes any and all prior separation, change in control, severance and salary continuation arrangements, programs and/or similar plans that may previously have been offered or provided by the Company (and its predecessors-in-interest) to Covered Employees provided, however, that an Agreement may provide for the survival of some or all of the provisions in such prior arrangements.

E. Plan Amendment or Termination. The Company reserves the right to amend or terminate the Plan at any time, in whole or in part, and in any manner, and for any reason. Notwithstanding the foregoing, unless a Covered Employee provides written consent to the contrary, any termination or amendment of the Plan will be effective only after two (2) years advance written notice to a Covered Employee if such amendment or termination would result in a reduction of benefits that the Covered Employee would have otherwise been able to receive under the pre-amended or terminated Plan.

F. At-Will Employment. No provision of the Plan is intended to provide you with any right to continue as an employee with the Company or in any other capacity, for any specific period of time, or otherwise affect the right of the Company to terminate the employment or service of any individual at any time for any reason or no reason, with or without cause.

G. Section 409A of the Internal Revenue Code. This Plan is intended to provide change in control and/or severance benefits pursuant to an employee welfare benefit plan subject to ERISA. The Plan is not intended to constitute a "nonqualified deferred compensation plan" within the meaning of Section 409A of the Internal Revenue Code (the "**Code**"). Notwithstanding the foregoing, in the event this Plan or any benefit paid under this Plan to a Covered Employee is deemed to be subject to Code Section 409A, such Covered Employee consents to the Company's adoption of such conforming amendments as the Company deems advisable or necessary, in its sole discretion, to comply with Code Section 409A and avoid the imposition of taxes under Code Section 409A. Each payment made pursuant to any provision of this Plan shall be considered a separate payment and not one of a series of payments for purposes of Code Section 409A. While it is intended that all payments and benefits provided under this Plan to Covered Employees will be exempt from or comply with Code Section 409A, the Company makes no representation or covenant to ensure that the payments under this Plan are exempt from or compliant with Code Section 409A. The Company will have no liability to Covered Employees or any other party if a payment or benefit under this Plan is challenged by any taxing authority or is ultimately determined not to be exempt or compliant. The Covered Employees further understand and agree that the Covered Employees will be entirely responsible for any and all taxes on any benefits payable to the Covered Employees as a result of this Plan. In addition, if upon a Covered Employee's "separation from service" within the meaning of Code Section 409A, he or she is then a "specified employee" (as defined in Code Section 409A), then solely to the extent necessary to comply with Code Section 409A and avoid the imposition of taxes under Code Section 409A, the Company shall defer payment of "nonqualified deferred compensation" subject to Code Section 409A payable as a result of and within six (6) months following such "separation from service" under this Plan until the earlier of (i) the first business day of the seventh month following the Covered Employee's "separation from service," or (ii) ten (10) days after the Company receives written confirmation of the Covered Employee's death. Any such delayed payments shall be made without interest.

H. Indemnification. The Company agrees to indemnify its officers and employees and the members of the Board of Directors of the Company from all liabilities from their acts or omissions in connection with the administration, amendment or termination of the Plan, to the maximum extent permitted by applicable law.

I. Severability. If any provision of the Plan is held invalid or unenforceable, its invalidity or unenforceability will not affect any other provision of the Plan, and the Plan will be construed and enforced as if such provision had not been included.

J. Headings. Headings in this Plan document are for purposes of reference only and will not limit or otherwise affect the meaning hereof.

IV. STATEMENT OF ERISA RIGHTS

As a participant in the Plan you are entitled to certain rights and protections under ERISA. ERISA provides that all Plan participants shall be entitled to:

A. Receive Information About Your Plan and Benefits

Examine, without charge, at the Plan Administrator's office and at other specified locations, such as work sites, all documents governing the Plan.

Obtain, upon written request to the Plan Administrator, copies of documents governing the operation of the Plan. The Plan Administrator may impose a reasonable charge for the copies.

B. Prudent Actions by Plan Fiduciaries

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate your Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the interest of you and other Plan participants and beneficiaries. No one, including your employer or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a welfare benefit or exercising your rights under ERISA.

C. Enforce Your Rights

If your claim for a welfare benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of Plan documents and do not receive it within 30 days, you may file suit in a federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay you up to $110.00 per day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Plan Administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court after you have completed the Plan's administrative appeals process. If you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

D. Assistance With Your Questions

If you have any questions about the Plan, you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Plan Administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory, or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

ADDITIONAL PLAN INFORMATION

Name of Plan:	Oncocyte Corporation Change in Control and Severance Plan
Employer Sponsoring Plan:	Oncocyte Corporation 15 Cushing, Irvine, CA 92618
Employer Identification Number:	27-1041563
Plan Number:	501
Plan Year:	Calendar Year
Plan Administrator:	Oncocyte Corporation c/o Chief Operating Officer 15 Cushing, Irvine, CA 92618 Telephone No. (949) 409-7600
Agent for Service of Legal Process:	Plan Administrator, at the above address
Type of Plan:	Employee Welfare Benefit Plan providing for change in control and/or severance benefits
Plan Costs:	The cost of the Plan is paid by Oncocyte Corporation
Type of Administration:	Self-administered by the Plan Administrator

[signature on following page]

IN WITNESS WHEREOF, the Company has caused this Plan to be duly executed as of March 1, 2020.

ONCOCYTE CORPORATION

By: _____

Title:

Exhibit 10.36

CHANGE IN CONTROL AND SEVERANCE AGREEMENT

This Change in Control Severance Agreement (the "**Agreement**") is entered into by and between [Employee Name] ("**you**" or "**your**") and OncoCyte Corporation (the "**Company**"). This Agreement has an effective date of _____, 2020 (the "**Effective Date**"). The Board has authorized the Company to enter into this Agreement in order for you to become a Covered Employee participant under the OncoCyte Corporation Change in Control and Severance Plan (the "**Plan**"). This Agreement enumerates the Plan benefits that may be provided to you as a Covered Employee as referenced in Section II of the Plan. All provisions of this Agreement are subject to and governed by the terms of the Plan. In the event of any conflict in terms between the Plan and this Agreement, the terms of the Plan shall prevail and govern.

In consideration of the mutual covenants and promises made in this Agreement, you and the Company agree as follows:

SECTION 1. DEFINITIONS.

In addition to terms defined elsewhere herein or in the Plan, the following terms have the following meanings when used in this Agreement. If you have an employment agreement with the Company which includes defined terms that expressly are different from and/or conflict with the below defined terms, the terms of this Agreement shall govern and shall supersede the terms of the employment agreement.

1.1 "**Base Salary**" means your annual rate of base salary as of the day before your Termination Date and disregarding any reduction in base salary which constituted Good Reason.

1.2 "**Board**" means the Company's Board of Directors.

1.3 "**Cause**" means the occurrence of one or more of the following:

(i) Your personal dishonesty, willful misconduct, or breach of fiduciary duty involving personal profit;

(ii) Your continuing intentional or habitual failure to perform your stated duties;

(iii) Your violation of any law (other than minor traffic violations or similar misdemeanor offenses not involving moral turpitude);

(iv) Your material breach of any provision of an employment or independent contractor agreement with the Company; or

(v) Any other act or omission by you that, in the opinion of the Board, could reasonably be expected to adversely affect the Company's or an affiliate's business, financial condition, prospects and/or reputation.

In each of the foregoing subclauses (i) through (v), whether or not a "Cause" event has occurred will be determined by the Board in its sole discretion and such determination shall be final, conclusive and binding. Your employment shall be deemed to have terminated for Cause if, after your employment has terminated, facts and circumstances are discovered that would have justified a termination for Cause, including, without limitation, violation of material Company policies or breach of noncompetition, confidentiality or other restrictive covenants that may apply to you. Any termination for "Cause" will not limit any other right or remedy the Company may have under this Agreement or otherwise.

1.4 "**Change in Control**" means the occurrence of one or more of the following:

(i) the acquisition of Voting Securities of the Company by a Person or an Affiliate entitling the holder thereof to elect a majority of the directors of the Company; provided, that an increase in the amount of Voting Securities held by a Person or Affiliate who on the date of this Agreement beneficially owned (as defined in Section 13(d) of the Exchange Act, as amended, and the regulations thereunder) more than 10% of the Voting Securities shall not constitute a Change of Control; and provided, further, that an acquisition of Voting Securities by one or more Persons acting as an underwriter in connection with a sale or distribution of such Voting Securities shall not constitute a Change of Control under this clause (a);

(ii) the sale of all or substantially all of the assets of the Company; or

(iii) a merger or consolidation of the Company with or into another corporation or entity in which the stockholders of the Company immediately before such merger or consolidation do not own, in the aggregate, Voting Securities of the surviving corporation or entity (or the ultimate parent of the surviving corporation or entity) entitling them, in the aggregate (and without regard to whether they constitute an Affiliate) to elect a majority of the directors or persons holding similar powers of the surviving corporation or entity (or the ultimate parent of the surviving corporation or entity)

A transaction shall not constitute a Change in Control if its sole purpose is to change the state of the Company's incorporation or 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 transactions, or if all of the Persons acquiring Voting Securities or assets of the Company or merging or consolidating with the Company are one or more Subsidiaries.

1.5 "**Code**" means the Internal Revenue Code of 1986 as amended.

1.6 "**Equity Awards**" means restricted stock, restricted stock units, performance stock units, stock options, and/or other unvested equity compensation awards that were granted by the Company before the Change in Control (and which would include such awards that are assumed, continued, or otherwise replaced by the Company's acquirer in a Change in Control).

1.7 "**Good Reason**" means the occurrence without your written consent of any one or more of the following events and where the initial existence of such event occurred on or after a Change in Control. This "Good Reason" definition and process is intended to comply with the safe harbor provided under Treasury Regulation Section 1.409A-1(n)(2)(ii) and shall be interpreted accordingly.

(i) you have incurred a material diminution in your responsibilities, duties or authority;

(ii) you have incurred a material diminution in your Base Salary; or

(iii) there shall have occurred a relocation of your principal workplace to a location more than thirty-five (35) miles from your workplace as of the date of this Agreement, without your written consent.

Notwithstanding the foregoing, Good Reason shall exist only if the following conditions are met: (A) you give the Company written notice, pursuant to Section 3.8 herein, of the occurrence of the event giving rise to such termination right; (B) such notice is delivered to the Company within **sixty (60) days** of the initial existence of the condition giving rise to the right to terminate for Good Reason; (C) the Company shall have had a reasonable opportunity to cure, to the extent curable, for fifteen (15) days following receipt of your written notice of Good Reason (provided, that if such cure is begun in good faith but cannot be completed within such fifteen (15)-day period, the Company shall have until thirty (30) days following receipt of such notice to complete such cure); (D) the Company fails to cure the alleged Good Reason to your reasonable satisfaction prior to your termination; and (E) the events described in the preceding sentence, singly or in combination, result in a material negative change in your employment relationship with the Company, so that your termination effectively constitutes an involuntary separation from service within the meaning of Section 409(A) of the Internal Revenue Code. Failure to timely provide such written notice to the Company or failure to timely resign your employment for Good Reason means that you will be deemed to have consented to and waived the Good Reason event. If the Company does timely cure or remedy the Good Reason event, then you may either resign your employment without Good Reason or you may continue to remain employed on an at-will basis.

1.8 "**Qualifying Severance Termination**" means that your termination was because the Company terminated your employment without Cause or because you resigned your employment for Good Reason; provided, however, that your termination does not constitute a Qualifying Change in Control Termination, as defined herein.

1.9 "**Qualifying Change in Control Termination**" means that: (i) your Termination Date occurred on or within **three (3) months before** or **twelve (12) months after** a Change in Control; and (ii) your termination was because the Company terminated your employment without Cause or because you resigned your employment for Good Reason.

1.10 "**Termination Date**" means your last day of employment with the Company and such termination of employment must also constitute your "separation from service" with the Company within the meaning of Code Section 409A.

SECTION 2. CONSEQUENCES OF A QUALIFYING TERMINATION.

Under the Plan, there are two types of qualifying terminations: (i) severance terminations, which provide a specified set of benefits, and (ii) change in control terminations, which provide a different set of benefits. The benefits due under each type of termination are set forth in turn below.

2.1 Qualifying Severance Termination. If your employment is terminated due to a Qualifying Severance Termination, then you will be entitled to:

(i) **payment of [number] (#) months of your Base Salary**, which may be paid in a lump sum or, at the election of the Company, in installments consistent with the payment of your salary while employed by the Company, subject to such payroll deductions and withholdings as are required by law; and

(ii) **partial acceleration with vesting and exercisability of your outstanding unvested Equity Awards as of your Termination Date that were scheduled to vest based on the passage of time during the twelve (12) months following your Termination Date.** This section 2.1 shall not apply to (a) termination of your employment by an Affiliate if you remain employed by the Company, (b) termination of your employment by the Company if you remain employed by an Affiliate in a manner that does not constitute a diminution in your authority, duties, or responsibility, or (c) termination of your employment that constitutes a Qualifying Change in Control Termination.

2.2 Qualifying Change in Control Termination. If your employment is terminated due to a Qualifying Change in Control Termination, then you will be entitled to:

(i) **payment of [number] (#) months of your Base Salary**, which may be paid in a lump sum or, at the election of the Company, in installments consistent with the payment of your salary while employed by the Company, subject to such payroll deductions and withholdings as are required by law; and

(ii) **payment of [number] (#) months of your target cash bonus** for the year of the Qualifying Change in Control Termination, which shall be paid to you at the same time or times that they would otherwise have been paid if you were still employed, subject to such payroll deductions and withholdings as are required by law; and

(iii) **full acceleration with vesting and exercisability of all of your outstanding unvested Equity Awards as of your Termination Date (with any performance conditions being deemed to have been satisfied at maximum level of performance).** This section 2.2 shall not apply to (a) termination of your employment by an Affiliate if you remain employed by the Company, or (b) termination of your employment by the Company if you remain employed by an Affiliate in a manner that does not constitute a diminution in your authority, duties, or responsibility.

2.3 Benefits. Subject to the conditions set forth herein, in the event that you incur a Qualifying Severance Termination or a Qualifying Change in Control Termination, the Company will, within thirty (30) days of the Termination Date, provide you with a taxable lump sum payment (which shall not be grossed up for applicable income and employment taxes) equal to [number] (#) months of the premium costs of group health plan continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") to the same extent provided under the Company's group health plan (including medical, dental, and vision benefits) in which you and your eligible dependent(s), if any, were covered immediately before the Termination Date. The payment due under this Section 2.3 will be made regardless of whether you elect COBRA continuation coverage. The period of such COBRA benefits shall be considered part of your COBRA coverage entitlement period.

2.4 As a condition to receiving (and continuing to receive) the payments provided in Section 2.1 or 2.2 as applicable, and Section 2.3, you must: (i) within no later than **forty-five (45) days** after your Termination Date, execute (and not revoke) and deliver to the Company a separation agreement and general release of all claims in substantially the form attached as Exhibit A hereto (the "**Separation Agreement**") and (ii) remain in full compliance with such Separation Agreement.

SECTION 3. GENERAL PROVISIONS.

3.1 Assignability; Binding Nature. Commencing on the Effective Date, this Agreement will be binding upon you and the Company. This Agreement may not be assigned by you except that your rights to compensation and benefits hereunder, subject to the limitations of this Agreement, may be transferred by will or operation of law. No rights or obligations of the Company under this Agreement may be assigned or transferred except in the event of a merger or consolidation in which the Company is not the continuing entity, or the sale or liquidation of all or substantially all of the assets of the Company provided that the assignee or transferee is the successor to all or substantially all of the assets of the Company and assumes the Company's obligations under this Agreement contractually or as a matter of law. The Company will require any such purchaser, successor or assignee to expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such purchase, succession or assignment had taken place. Your rights and obligations under this Agreement shall not be transferable by you by assignment or otherwise provided, however, that if you die, all amounts then payable to you hereunder shall be paid in accordance with the terms of this Agreement to your devisee, legatee or other designee or, if there be no such designee, to your estate.

3.2 Governing Law. This Agreement is governed by the Employee Retirement Income Security Act of 1974, as amended, and, to the extent applicable, the laws of the State of Delaware, without reference to the conflict of law provisions thereof.

3.3 Taxes. The Company shall have the right to withhold and deduct from any payment hereunder any federal, state or local taxes of any kind required by law to be withheld with respect to any such payment. The Company (including without limitation members of its Board) shall not be liable to you or other persons as to any unexpected or adverse tax consequence realized by you and you shall be solely responsible for the timely payment of all taxes arising from this Agreement that are imposed on you. This Agreement is intended to comply with the applicable requirements of Code Section 409A and shall be limited, construed and interpreted in a manner so as to comply therewith. Each payment made pursuant to any provision of this Agreement shall be considered a separate payment and not a series of payments for purposes of Code Section 409A. While it is intended that all payments and benefits provided under this Agreement to you will be exempt from or comply with Code Section 409A, the Company makes no representation or covenant to ensure that the payments under this Agreement are exempt from or compliant with Code Section 409A. The Company will have no liability to you or any other party if a payment or benefit under this Agreement is challenged by any taxing authority or is ultimately determined not to be exempt or compliant. In addition, if upon your Termination Date, you are then a "specified employee" (as defined in Code Section 409A), then solely to the extent necessary to comply with Code Section 409A and avoid the imposition of taxes under Code Section 409A, the Company shall defer payment of "nonqualified deferred compensation" subject to Code Section 409A payable as a result of and within six (6) months following your Termination Date until the earlier of (i) the first business day of the seventh month following your Termination Date or (ii) ten (10) days after the Company receives written confirmation of your death. Any such delayed payments shall be made without interest. In the event that it is determined that any payment or distribution of any type to or for your benefit made by the Company, by any person who acquires ownership or effective control or ownership of a substantial portion of the Company's assets (within the meaning of Code Section 280G) or by any affiliate of such person, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise (the "Total Payments"), would be subject to the excise tax imposed by Section 4999 of the Code or any interest or penalties with respect to such excise tax (and/or would not deductible under Code Section 280G) (such loss of a tax deduction under Code Section 280G and/or excise tax, together with any such interest or penalties, are collectively referred to as the "Excise Tax"), then such payments or distributions or benefits shall be payable either (i) in full, or (ii) as to such lesser amount which would result in no portion of such payments or distributions or benefits being subject to the Excise Tax, whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the excise tax imposed by Code Section 4999, results in your receipt on an after-tax basis, of the greatest amount of payments, distributions and benefits, notwithstanding that all or some portion of such payments, distributions or benefits may be taxable under Code Section 4999. Any determination required under this Section 3.3 shall be made in writing by the Company or by a qualified accountant or counsel selected by the Company (the "Accountant") whose determination shall be conclusive and binding. You and the Company shall furnish the Accountant such documentation and documents as the Accountant may reasonably request in order to make its determination. In no event will the Company be required to gross up any payment or benefit to you to avoid the effects of the Excise Tax or to pay any regular or excise taxes arising from the application of the Excise Tax.

3.4 No Change in At-Will Status. Your employment with the Company is and shall continue to be at-will, as defined under applicable law. If your employment terminates for any reason, you shall not be entitled to any payments, benefits, damages, awards or compensation other than as provided by this Agreement or required by applicable law, or as may otherwise be established under the Company's then existing employee benefit plans or policies at the time of termination. Nothing in this Agreement modifies your at-will employment status and either you or the Company can terminate the employment relationship at any time, with or without Cause.

3.5 Entire Agreement. Except as otherwise specifically provided in this Agreement, the Plan and this Agreement (and the agreements referenced herein) contain all the legally binding understandings and agreements between you and the Company pertaining to the subject matter of this Agreement and supersedes all such agreements, whether oral or in writing, previously discussed or entered into between the parties.

3.6 Covenants. As a condition of this Agreement and to your receipt of any post-employment benefits, you agree that you will fully and timely comply with all of the covenants set forth in this Section 3.6 (which shall survive your termination of employment and termination or expiration of this Agreement):

(i) You will fully comply with all obligations under any confidentiality, inventions and/or proprietary agreement between you and the Company (as amended from time to time, the "**Confidentiality Agreement**") and further agree that the provisions of the Confidentiality Agreement shall survive any termination or expiration of this Agreement or termination of your employment or any subsequent service relationship with the Company;

(ii) Within **five (5) days** of the Termination Date, you shall return to the Company all Company confidential information including, but not limited to, intellectual property, etc. and you shall not retain any copies, facsimiles or summaries of any Company proprietary information;

(iii) You will not at any time during or following your employment with the Company, make (or direct anyone to make) any disparaging statements (oral or written) about the Company, or any of its affiliated entities, officers, directors, employees, stockholders, representatives or agents, or any of the Company's products or services or work-in-progress, that are harmful to their businesses, business reputations or personal reputations; and

(iv) You agree that, upon the Company's request and without any payment therefore, you shall reasonably cooperate with the Company (and be available as necessary) after the Termination Date in connection with any matters involving events that occurred during your period of employment with the Company.

You also agree that you will fully and timely comply with all of the covenants set forth in this Section 3.6 (which shall survive your termination of employment and termination or expiration of this Agreement):

(v) You will fully pay off any outstanding amounts owed to the Company no later than their applicable due date or within **thirty (30) days** of your Termination Date (if no other due date has been previously established);

(vi) Within **five (5) days** of the Termination Date, you shall return to the Company all Company property including, but not limited to, computers, cell phones, pagers, keys, business cards, etc.;

(vii) Within **fifteen (15) days** of the Termination Date, you will submit any outstanding expense reports to the Company on or prior to the Termination Date; and

(viii) As of the Termination Date, you will no longer represent that you are an officer, director or employee of the Company and you will immediately discontinue using your Company mailing address, telephone, facsimile machines, voice mail and e-mail.

You acknowledge that (i) upon a violation of any of the covenants contained in this Section 3.6 of this Agreement or (ii) if the Company is terminating your employment for Cause, the Company would as a result sustain irreparable harm, and, therefore, you agree that in addition to any other remedies which the Company may have, the Company shall be entitled to seek equitable relief including specific performance and injunctions restraining you from committing or continuing any such violation; and

3.7 Offset. Any payments or benefits made to you under this Agreement may be reduced, in the Company's discretion, by any amounts you owe to the Company provided that any such offsets do not violate Code Section 409A. To the extent you receive severance or similar payments and/or benefits under any other Company plan, program, agreement, policy, practice, or the like, or under the WARN Act or similar state law, the payments and benefits due to you under this Agreement will be correspondingly reduced on a dollar-for-dollar basis (or vice-versa) in a manner that complies with Code Section 409A.

3.8 Notice. Any notice that the Company is required to or may desire to give you shall be given by personal delivery, recognized overnight courier service, email, telecopy or registered or certified mail, return receipt requested, addressed to you at your address of record with the Company, or at such other place as you may from time to time designate in writing. Any notice that you are required or may desire to give to the Company hereunder shall be given by personal delivery, recognized overnight courier service, email, telecopy or by registered or certified mail, return receipt requested, addressed to the Company's Chief [Executive/Operating] Officer at its principal office, or at such other office as the Company may from time to time designate in writing. A written notice of your of your intention to terminate your employment with the Company for Good Reason, as described in Section 1.7 herein, shall (i) indicate the specific termination provision that is being relied upon, (ii) set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of your employment under the provision so indicated, and (iii) specify a termination date of not less than **two (2) weeks** after giving such notice. The date of actual delivery of any notice under this Section 3.8 shall be deemed to be the date of delivery thereof.

3.9 Waiver; Severability. No provision of this Agreement may be amended or waived unless such amendment or waiver is agreed to by you and the Company in writing. No waiver by you or the Company of the breach of any condition or provision of this Agreement will be deemed a waiver of a similar or dissimilar provision or condition at the same or any prior or subsequent time. Except as expressly provided herein to the contrary, failure or delay on the part of either party hereto to enforce any right, power, or privilege hereunder will not be deemed to constitute a waiver thereof. In the event any portion of this Agreement is determined to be invalid or unenforceable for any reason, the remaining portions shall be unaffected thereby and will remain in full force and effect to the fullest extent permitted by law.

3.10 Whistleblower. No provision of this Agreement or Exhibit A shall be interpreted so as to impede you from reporting possible violations of federal law or regulation to any governmental agency or entity, including but not limited to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General, or making other disclosures under the whistleblower provisions of federal law or regulation. You do not need the prior authorization of the Company to make any such reports or disclosures and you shall not be required to notify the Company that such reports or disclosures have been made.

3.11 Voluntary Agreement. You acknowledge that you have been advised to review this Agreement with your own legal counsel and other advisors of your choosing and that prior to entering into this Agreement, you have had the opportunity to review this Agreement with your attorney and other advisors and have not asked (or relied upon) the Company or its counsel to represent you or your counsel in this matter. You further represent that you have carefully read and understand the scope and effect of the provisions of this Agreement and that you are fully aware of the legal and binding effect of this Agreement. This Agreement is executed voluntarily by you and without any duress or undue influence on the part or behalf of the Company.

BY SIGNING BELOW, YOU EXPRESSLY ACKNOWLEDGE THAT YOU (I) HAVE RECEIVED A COPY OF THE PLAN AND ITS SUMMARY PLAN DESCRIPTION, (II) UNDERSTAND THE TERMS OF THE PLAN AND THIS AGREEMENT, (III) ARE VOLUNTARILY ENTERING INTO THIS AGREEMENT AND (IV) ARE AGREEING TO BE BOUND BY THE TERMS OF THE PLAN AND THIS AGREEMENT.

*[*SIGNATURE PAGE FOLLOWS*]*

PLEASE ACKNOWLEDGE YOUR ACCEPTANCE AND UNDERSTANDING OF THIS AGREEMENT BY SIGNING AND RETURNING IT TO THE UNDERSIGNED. A COPY OF THIS SIGNED AGREEMENT WILL BE SENT TO YOU FOR YOUR RECORDS.

ACKNOWLEDGED AND AGREED:

ONCOCYTE CORPORATION	**[EMPLOYEE NAME]**
By: _____	_____
Its:	

EXHIBIT A

CONFIDENTIAL SEPARATION AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS

This Confidential Separation Agreement and General Release of All Claims, dated [_____] (the "**Agreement**"), is made pursuant to that certain Change in Control Severance Agreement dated [_____] (the "**Severance Agreement**") entered into by and between [_____] ("**Employee**") on the one hand, and OncoCyte Corporation (the "**Company**"), on the other. This Agreement is entered into in consideration for and as condition precedent to the Company providing separation benefits to Employee pursuant to the Severance Agreement. It is understood and agreed that the Company is not otherwise obligated to provide such benefits under the terms of the Severance Agreement and that the Company is doing so as a direct result of Employee's willingness to agree to the terms hereof. Collectively, Employee and the Company shall be referred to as the "**Parties**."

1. Employee was formerly employed by the Company. Employee's employment with the Company ended effective [_____] (the "**Termination Date**").

2. The purpose of this Agreement is to resolve any and all disputes or claims that Employee may have relating to Employee's employment with the Company, and the termination thereof (the "D**isputes**"). The parties desire to resolve the above-referenced Disputes, and all issues raised by the Disputes, without the further expenditure of time or the expense of contested litigation. Additionally, the Parties desire to resolve any known or unknown claims that Employee may have as more fully set forth below. For these reasons, they have entered into this Agreement.

3. Employee acknowledges and agrees that Employee has received all wages due to Employee through the Termination Date, including but not limited to all accrued but unused vacation, bonuses, commissions, options, benefits, and monies owed by the Company to Employee. Employee further agrees and acknowledges that Employee has been fully paid and reimbursed for any and all business expenses which Employee incurred during his/her employment with the Company.

4. The Company expressly denies any violation of any federal, state or local statute, ordinance, rule, regulation, policy, order or other law. The Company also expressly denies any liability to Employee. Nothing contained herein is to be construed as an admission of liability on the part of the Company hereby released, by whom liability is expressly denied. accordingly, while this Agreement resolves all issues referenced herein, it does not constitute an adjudication or finding on the merits of the allegations in the disputes and it is not, and shall not be construed as, an admission by the Company of any violation of federal, state or local statute, ordinance, rule, regulation, policy, order or other law, or of any liability alleged in the disputes.

5. In consideration of and in return for the promises and covenants undertaken by the Company and Employee herein and the releases given by Employee herein:

a. In addition to any compensation otherwise due Employee for actual work performed up to and including the Termination Date, Employee shall receive severance compensation as outlined in Section 2 of the Severance Agreement. Pursuant to Section 2 of the Severance Agreement, Employee will receive the severance pay and other payments and benefits in accordance with the terms of such Section 2 of the Severance Agreement. As a condition to receiving and continuing to receive the payments and benefits under this paragraph 5(a), Employee must (i) within but not later than forty-five (45) days after the Termination Date, execute (and not revoke) and deliver to the Company this Agreement and (ii) remain in full compliance with this Agreement and the Severance Agreement. Employee shall not be entitled to accrue any additional leave or other benefits subsequent to the Termination Date.

b. Any tax liabilities resulting from or arising out of the benefits to Employee referred to above shall be the sole and exclusive responsibility of Employee. Employee agrees to indemnify and hold the Company and the others released herein harmless from and for any tax liability (including, but not limited to, assessments, interest, and penalties) imposed on the Company by any taxing authority on account of the Company failing to withhold for tax purposes any amount from the benefits made as consideration of this Agreement.

6. Except for any rights created by this Agreement, in consideration of and in return for the promises and covenants undertaken herein by the Company, and for other good and valuable consideration, receipt of which is hereby acknowledged*:*

a. Employee does hereby acknowledge full and complete satisfaction of and does hereby release, absolve and discharge the Company, and each of its parents, subsidiaries, divisions, related companies and business concerns, past and present, as well as each of its partners, trustees, directors, members, officers, agents, attorneys, servants and employees, past and present, and each of them (hereinafter collectively referred to as "**Releasees**") from any and all claims, demands, liens, agreements, contracts, covenants, actions, suits, causes of action, grievances, wages, vacation payments, severance payments, obligations, commissions, overtime payments, debts, profit sharing claims, expenses, damages, judgments, orders and liabilities of whatever kind or nature in law, equity or otherwise, whether known or unknown to Employee which Employee now owns or holds or has at any time owned or held as against Releasees, or any of them, including specifically but not exclusively and without limiting the generality of the foregoing, any and all claims, demands, grievances, agreements, obligations and causes of action, known or unknown, suspected or unsuspected by Employee: (1) arising out of or in any way connected with the Disputes; or (2) arising out of Employee's employment (or termination thereof) with the Company; or (3) arising out of or in any way connected with any claim, loss, damage or injury whatever, known or unknown, suspected or unsuspected, resulting from any act or omission by or on the part of the Releasees, or any of them, committed or omitted on or before the Effective Date hereof. Additionally, Employee in any future claims may not use against Releasees as evidence any acts or omissions by or on the part of the Releasees, or any of them, committed or omitted on or before the Effective Date hereof, and no such future claims may be based on any such acts or omissions. Also without limiting the generality of the foregoing, Employee specifically releases the Releasees from any claim for attorneys' fees. EMPLOYEE ALSO SPECIFICALLY AGREES AND ACKNOWLEDGES EMPLOYEE IS WAIVING ANY RIGHT TO RECOVERY BASED ON STATE OR FEDERAL AGE, SEX, PREGNANCY, RACE, COLOR, NATIONAL ORIGIN, MARITAL STATUS, RELIGION, VETERAN STATUS, DISABILITY, SEXUAL ORIENTATION, MEDICAL CONDITION OR OTHER ANTI-DISCRIMINATION LAWS, INCLUDING, WITHOUT LIMITATION, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE AGE DISCRIMINATION IN EMPLOYMENT ACT, THE EQUAL PAY ACT, THE AMERICANS WITH DISABILITIES ACT, THE FAMILY AND MEDICAL LEAVE ACT, THE EMPLOYEE RETIREMENT INCOME SECURITY ACT, THE WORKER ADJUSTMENT AND RETRAINING ACT, THE FAIR LABOR STANDARDS ACT, AND ANY OTHER SECTION OF THE CALIFORNIA LABOR OR GOVERNMENT CODE, ALL AS AMENDED, WHETHER SUCH CLAIM BE BASED UPON AN ACTION FILED BY EMPLOYEE OR BY A GOVERNMENTAL AGENCY. This release does not release claims that cannot be released as a matter of law. Employee is not (i) waiving Employee's right to file a charge, testify, assist, or cooperate with the EEOC, (ii) waiving rights or claims that may arise after the date Employee signs this Agreement, or (iii) releasing claims for unemployment compensation benefits, workers' compensation benefits, those claims under the Fair Labor Standards Act which cannot be waived pre-litigation without Department of Labor or court approval, health insurance benefits under the Consolidated Omnibus Budget Reconciliation Act (COBRA), or claims with regard to vested benefits under a retirement plan governed by the Employee Retirement Income Security Act (ERISA).

7. Employee agrees and understands as follows: it is the intention of Employee in executing this instrument that it shall be effective as a bar to each and every claim, demand, grievance and cause of action hereinabove specified. In furtherance of this intention, Employee hereby expressly waives any and all rights and benefits conferred upon Employee by the provisions of section 1542 of the California Civil Code (or any other similar state code) and expressly consents that this Agreement shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown and unsuspected claims, demands and causes of action, if any, as well as those relating to any other claims, demands and causes of action hereinabove specified. Section 1542 provides*:*

> **A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.**

Having been so apprised, Employee nevertheless hereby voluntarily elects to and does waive the rights described in Civil Code section 1542 and elects to assume all risks for claims that now exist in Employee's favor, known or unknown, that are released under this Agreement.

8. Employee agrees: The fact of and the terms and conditions of this Agreement and any and all actions by Releasees taken in accordance herewith, are confidential, and shall not be disclosed, discussed, publicized or revealed by Employee or his/her attorneys to any other person or entity, including but not limited to radio, television, press media, newspapers, magazines, professional journals and professional reports, excepting only Employee's accountants, lawyers, immediate family members (mother, father, brother, sister, child, spouse), the persons necessary to carry out the terms of this Agreement or as required by law. Employee shall admonish anyone to whom disclosure is made to maintain confidentiality. Should Employee be asked about the disputes or this Agreement, Employee shall limit Employee's response, if any, by stating that the matters have been amicably resolved.

9. In the event a government agency files or pursues a charge or complaint relating to Employee's employment with the Company and/or the disputes, Employee agrees not to accept any monetary or other benefits arising out of the charge or complaint.

10. Employee agrees not to make any derogatory, disparaging or negative comments about the Company (or any Company affiliate), its products, officers, directors, or employees.

11. If any provision of this Agreement or application thereof is held invalid, the invalidity shall not affect other provisions or applications of the Agreement which can be given effect without the invalid provision or application. To this end, the provisions of this Agreement are severable.

12. Employee agrees and understands that this Agreement may be treated as a complete defense to any legal, equitable, or administrative action that may be brought, instituted, or taken by Employee, or on Employee's behalf, against the Company or the Releasees, and shall forever be a complete bar to the commencement or prosecution of any claim, demand, lawsuit, charge, or other legal proceeding of any kind against the Company and the Releasees.

13. This Agreement and all covenants and releases set forth herein shall be binding upon and shall inure to the benefit of the respective Parties hereto, their legal successors, heirs, assigns, partners, representatives, parent companies, subsidiary companies, agents, attorneys, officers, employees, directors and stockholders.

14. The Parties hereto acknowledge each has read this Agreement, that each fully understands its rights, privileges and duties under the Agreement, that each has had an opportunity to consult with an attorney of its choice and that each enters this Agreement freely and voluntarily.

15. This Agreement may not be released, discharged, abandoned, changed or modified in any manner, except by an instrument in writing signed by Employee and an officer of the Company. The failure of any party to enforce at any time any of the provisions of this Agreement shall in no way be construed as a waiver of any such provision, nor in any way to affect the validity of this Agreement or any part thereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.

16. This Agreement and the provisions contained herein shall not be construed or interpreted for or against any party hereto because that party drafted or caused that party's legal representative to draft any of its provisions.

17. Employee acknowledges Employee may hereafter discover facts different from, or in addition to, those Employee now knows or believes to be true with respect to the claims, demands, liens, agreements, contracts, covenants, actions, suits, causes of action, wages, obligations, debts, expenses, damages, judgments, orders and liabilities herein released, and agrees the release herein shall be and remain in effect in all respects as a complete and general release as to all matters released herein, notwithstanding any such different or additional facts.

18. The undersigned each acknowledge and represent that no promise or representation not contained in this Agreement has been made to them and acknowledge and represent that this Agreement and the Severance Agreement contains the entire understanding between the parties and contains all terms and conditions pertaining to the compromise and settlement of the subjects referenced herein. The undersigned further acknowledge that the terms of this Agreement are contractual and not a mere recital.

19. Employee expressly acknowledges, understands and agrees that this Agreement includes a waiver and release of all claims which Employee has or may have under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §621, et seq. ("ADEA"). The terms and conditions of Paragraphs 20 through 22 apply to and are part of the waiver and release of ADEA claims under this Agreement. Company hereby advises Employee in writing to discuss this Agreement with an attorney before signing it. Employee acknowledges the Company has provided Employee at least forty-five (45) days within which to review and consider this Agreement before signing it. If Employee elects not to use all forty-five days, then Employee knowingly and voluntarily waives any claim that Employee was not in fact given that period of time or did not use the entire forty-five days to consult an attorney and/or consider this Agreement.

20. Within **three (3) calendar days** of signing and dating this Agreement, Employee shall deliver the signed original of this Agreement to the Chief [Executive/Operating] Officer of the Company. However, the Parties acknowledge and agree that Employee may revoke this Agreement for up to **seven (7) calendar days** following Employee's execution of this Agreement and that it shall not become effective or enforceable until the revocation period has expired. The Parties further acknowledge and agree that such revocation must be in writing addressed to and received by the Chief [Executive/Operating] Officer of the Company not later than midnight on the seventh day following execution of this Agreement by Employee. If Employee revokes this Agreement under this Paragraph, this Agreement shall not be effective or enforceable and Employee will not receive the benefits described above, including those described in paragraph 5.

21. If Employee does not revoke this Agreement in the timeframe specified at Paragraph 21 above, the Agreement shall be effective at 12:00:01 a.m. on the eighth day after it is signed by Employee (the "**Effective Date**").

22. This Agreement is intended to be exempt from the requirements of section 409A of the Internal Revenue Code of 1986 as amended ("**Section 409A**") and will be interpreted accordingly. While it is intended that all payments and benefits provided under this Agreement to Employee or on behalf of Employee will be exempt from section 409A, the Company makes no representation or covenant to ensure that such payments and benefits are exempt from or compliant with section 409A. The Company will have no liability to Employee or any other party if a payment or benefit under this Agreement is challenged by any taxing authority or is ultimately determined not to be exempt from or compliant with section 409A.

23. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original and such counterparts shall together constitute one and the same Agreement.

24. This Agreement shall be construed in accordance with, and be deemed governed by, the Employee Retirement Income Security Act of 1974, as amended, and, to the extent applicable, the laws of the State of California, without reference to the conflict of law provisions thereof.

25. The Company executes this Agreement for itself and on behalf of all other respective Releasees.

Employee has read the foregoing Confidential Separation Agreement and General Release of All Claims, and Employee accepts and agrees to the provisions contained therein and hereby executes it voluntarily and with full understanding of its consequences.

PLEASE READ CAREFULLY. THIS AGREEMENT CONTAINS A GENERAL RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.

Dated: _____ _____

[NAME]

OncoCyte Corporation

Dated: _____ _____

Name:
Title:

Exhibit 21

Oncocyte Corporation

The following is a list of subsidiaries of Oncocyte Corporation, omitting some subsidiaries which, considered in the aggregate, would not constitute a significant subsidiary.

Subsidiary	State or Jurisdiction of Incorporation
Insight Genetics, Inc.	Tennessee

EXHIBIT 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in Amendment No. 2 to Registration Statement on Form S-1 (No. 333-213810), Registration Statements on Form S-3 (No. 333-220769 and 333-231980) and in Registration Statements on Form S-8 (Nos. 333-219109, 333-208935, 333-227118 and 333-232773) of OncoCyte Corporation of our report dated March 25, 2020 relating to the financial statements of OncoCyte Corporation, which appears in this Annual Report on Form 10-K.

/s/ OUM & Co. LLP

San Francisco, California
March 25, 2020

Exhibit 31

CERTIFICATIONS

I, Ronald Andrews, certify that:

1. I have reviewed this annual report on Form 10-K of OncoCyte Corporation;

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 Rule 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 periodic 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 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 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 25, 2020

/s/ Ronald Andrews

Ronald Andrews
President and Chief Executive Officer

Exhibit 31

CERTIFICATIONS

I, Mitchell Levine, certify that:

1. I have reviewed this annual report on Form 10-K of OncoCyte Corporation;

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 Rule 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 periodic 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 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 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 25, 2020

/s/ Mitchell Levine

Mitchell Levine
Chief Financial Officer

Exhibit 32

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 OncoCyte Corporation (the "Company") for the year ended December 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, Ronald Andrews, President and Chief Executive Officer, and Mitchell Levine, Chief Financial Officer of the Company, certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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 25, 2020

/s/ Ronald Andrews
Ronald Andrews
President and Chief Executive Officer

/s/ Mitchell Levine
Mitchell Levine
Chief Financial Officer