

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

Form 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2016
or

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

For the transition period from _____ to _____ .

Commission File Number: 000-54014

VistaGen Therapeutics, Inc.

(Exact name of registrant as specified in its charter)

Nevada

(State or other jurisdiction of
incorporation or organization)

20-5093315

(I.R.S. Employer
Identification No.)

343 Allerton Avenue

South San Francisco, CA 94080

(Address of principal executive offices including zip code)

(650) 577-3600

(Registrant's telephone number, including area code)

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

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

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

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

(do not check if a smaller reporting company)

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

As of November 11, 2016, 8,379,921 shares of the registrant's common stock, \$0.001 par value, were issued and outstanding.

VistaGen Therapeutics, Inc.
Quarterly Report on Form 10-Q
for the Quarter Ended September 30, 2016

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PART I. FINANCIAL INFORMATION**Item 1. Condensed Consolidated Financial Statements (Unaudited)****VISTAGEN THERAPEUTICS, INC.****CONDENSED CONSOLIDATED BALANCE SHEETS**
(Amounts in Dollars, except share amounts)

	September 30, 2016	March 31, 2016
	(Unaudited)	
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 6,257,100	\$ 428,500
Prepaid expenses and other current assets	648,900	426,800
Total current assets	<u>6,906,000</u>	<u>855,300</u>
Property and equipment, net	69,200	87,600
Security deposits and other assets	47,800	46,900
Total assets	<u>\$ 7,023,000</u>	<u>\$ 989,800</u>
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current liabilities:		
Accounts payable	\$ 930,200	\$ 936,000
Accrued expenses	795,000	814,000
Current portion of notes payable and accrued interest	71,100	43,600
Capital lease obligations	600	1,100
Total current liabilities	<u>1,796,900</u>	<u>1,794,700</u>
Non-current liabilities:		
Notes payable	-	27,200
Accrued dividends on Series B Preferred Stock	1,101,600	2,089,600
Deferred rent liability	37,400	55,500
Total non-current liabilities	<u>1,139,000</u>	<u>2,172,300</u>
Total liabilities	<u>2,935,900</u>	<u>3,967,000</u>
Commitments and contingencies		
Stockholders' equity (deficit):		
Preferred stock, \$0.001 par value; 10,000,000 shares authorized at September 30, 2016 and March 31, 2016:		
Series A Preferred, 500,000 shares authorized and outstanding at September 30, 2016 and March 31, 2016	500	500
Series B Preferred; 4,000,000 shares authorized at September 30, 2016 and March 31, 2016; 1,160,240 shares and 3,663,077 shares issued and outstanding at September 30, 2016 and March 31, 2016, respectively	1,200	3,700
Series C Preferred; 3,000,000 shares authorized at September 30, 2016 and March 31, 2016; 2,318,012 shares issued and outstanding at September 30, 2016 and March 31, 2016	2,300	2,300
Common stock, \$0.001 par value; 30,000,000 shares authorized at September 30, 2016 and March 31, 2016; 8,405,128 and 2,623,145 shares issued at September 30, 2016 and March 31, 2016, respectively	8,400	2,600
Additional paid-in capital	144,854,200	132,725,000
Treasury stock, at cost, 135,665 shares of common stock held at September 30, 2016 and March 31, 2016	(3,968,100)	(3,968,100)
Accumulated deficit	(136,811,400)	(131,743,200)
Total stockholders' equity (deficit)	<u>4,087,100</u>	<u>(2,977,200)</u>
Total liabilities and stockholders' equity (deficit)	<u>\$ 7,023,000</u>	<u>\$ 989,800</u>

See accompanying notes to Condensed Consolidated Financial Statements.

VISTAGEN THERAPEUTICS, INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS

(Unaudited)

(Amounts in dollars, except share amounts)

	Three Months Ended September 30,		Six Months Ended September 30,	
	2016	2015	2016	2015
Operating expenses:				
Research and development	\$ 1,606,100	\$ 1,656,100	2,431,800	\$ 2,028,700
General and administrative	1,493,600	3,730,500	2,631,200	5,179,000
Total operating expenses	<u>3,099,700</u>	<u>5,386,600</u>	<u>5,063,000</u>	<u>7,207,700</u>
Loss from operations	(3,099,700)	(5,386,600)	(5,063,000)	(7,207,700)
Other expenses, net:				
Interest expense, net	(1,400)	(12,200)	(2,800)	(767,300)
Change in warrant liability	-	-	-	(1,894,700)
Loss on extinguishment of debt	-	(1,649,300)	-	(26,700,200)
Loss before income taxes	<u>(3,101,100)</u>	<u>(7,048,100)</u>	<u>(5,065,800)</u>	<u>(36,569,900)</u>
Income taxes	-	-	(2,400)	(2,300)
Net loss	\$ <u>(3,101,100)</u>	\$ <u>(7,048,100)</u>	\$ <u>(5,068,200)</u>	\$ <u>(36,572,200)</u>
Accrued dividend on Series B Preferred stock	(241,000)	(614,700)	(780,800)	(828,000)
Deemed dividend on Series B Preferred Units	-	(886,900)	(111,100)	(1,143,100)
Net loss attributable to common stockholders	\$ <u>(3,342,100)</u>	\$ <u>(8,549,700)</u>	\$ <u>(5,960,100)</u>	\$ <u>(38,543,300)</u>
Basic and diluted net loss attributable to common stockholders per common share	\$ <u>(0.42)</u>	\$ <u>(5.26)</u>	\$ <u>(0.91)</u>	\$ <u>(24.21)</u>
Weighted average shares used in computing basic and diluted net loss attributable to common stockholders per common share	<u>8,041,619</u>	<u>1,624,371</u>	<u>6,577,769</u>	<u>1,592,104</u>
Comprehensive loss	\$ <u>(3,101,100)</u>	\$ <u>(7,048,100)</u>	\$ <u>(5,068,200)</u>	\$ <u>(36,572,200)</u>

See accompanying notes to Condensed Consolidated Financial Statements.

VISTAGEN THERAPEUTICS, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(Amounts in Dollars)

	Six Months Ended September	
	30,	
	2016	2015
Cash flows from operating activities:		
Net loss	\$ (5,068,200)	\$ (36,572,200)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	26,000	28,900
Amortization of discounts on convertible and promissory notes	-	564,800
Change in warrant liability	-	1,894,700
Stock-based compensation	306,700	3,769,900
Expense related to modification of warrants, including exchange of warrants for Series C Preferred and common stock	57,400	122,300
Amortization of deferred rent	(18,100)	(11,600)
Fair value of common stock granted for services	217,000	500,000
Fair value of Series B Preferred stock granted for services	375,000	707,500
Fair value of warrants granted for services	227,500	-
Gain on currency fluctuation	-	(6,300)
Loss on extinguishment of debt	-	26,700,200
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	40,400	24,200
Accounts payable and accrued expenses, including accrued interest	(36,800)	(51,900)
Net cash used in operating activities	<u>(3,873,100)</u>	<u>(2,329,500)</u>
Cash flows from investing activities:		
Purchases of equipment	(7,700)	-
Net cash used in investing activities	<u>(7,700)</u>	<u>-</u>
Cash flows from financing activities:		
Net proceeds from issuance of common stock and warrants, including Units	9,537,100	280,000
Net proceeds from issuance of Series B Preferred Units	278,000	2,722,800
Repayment of capital lease obligations	(500)	(500)
Repayment of notes	(105,200)	(48,800)
Net cash provided by financing activities	<u>9,709,400</u>	<u>2,953,500</u>
Net increase in cash and cash equivalents	5,828,600	624,000
Cash and cash equivalents at beginning of period	428,500	70,000
Cash and cash equivalents at end of period	<u>\$ 6,257,100</u>	<u>\$ 694,000</u>
Supplemental disclosure of noncash activities:		
Conversion of Senior Secured Notes, Subordinate Convertible Notes, Promissory Notes, Accounts payable and other debt into Series B Preferred	\$ -	\$ 18,891,400
Insurance premiums settled by issuing note payable	\$ 117,500	\$ 79,400
Accrued dividends on Series B Preferred	\$ 780,800	\$ 828,000
Accrued dividends on Series B Preferred settled upon conversion by issuance of common stock	\$ 1,768,800	\$ 22,700

See accompanying notes to Condensed Consolidated Financial Statements.

VISTAGEN THERAPEUTICS, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Note 1. Description of Business

Overview

VistaGen Therapeutics, Inc. (NASDAQ: VTGN), a Nevada corporation, is a clinical-stage biopharmaceutical company dedicated to developing and commercializing innovative product candidates for patients with diseases and disorders involving the central nervous system (CNS). Our principal executive offices are located at 343 Allerton Avenue, South San Francisco, California 94080, and our telephone number is (650) 577-3600. Our website address is www.vistagen.com. Unless the context otherwise requires, the words “VistaGen Therapeutics, Inc.” “VistaGen,” “we,” “the Company,” “us” and “our” refer to VistaGen Therapeutics, Inc., a Nevada corporation.

Our lead product candidate, AV-101, is a new generation, oral antidepressant drug candidate in Phase 2 development for the adjunctive treatment of Major Depressive Disorder (MDD) in patients with an inadequate response to standard antidepressants approved by the U.S. Food and Drug Administration (FDA). We believe AV-101 may also have therapeutic potential in chronic neuropathic pain, epilepsy, Huntington’s disease and Parkinson’s disease.

AV-101’s mechanism of action, as an N-methyl D aspartate receptor (NMDAR) antagonist binding selectively at the glycine binding (GlyB) co-agonist site of the NMDAR, is fundamentally differentiated from all FDA-approved antidepressants, as well as all atypical antipsychotics used to augment standard antidepressant therapy.

Our ongoing Phase 2a clinical study of AV-101 in subjects with treatment-resistant MDD is being fully funded by the U.S. National Institute of Mental Health (NIMH) under our February 2015 Cooperative Research and Development Agreement (CRADA) with the NIMH, and is being conducted by Dr. Carlos Zarate, Jr., Chief of the NIMH’s Experimental Therapeutics & Pathophysiology Branch and its Section on Neurobiology and Treatment of Mood and Anxiety Disorders. The first patient in this NIMH-sponsored Phase 2a study was dosed in November 2015. Previous NIMH studies, including studies conducted by Dr. Zarate, have focused on the antidepressant effects of low dose, intravenous (I.V.) ketamine in patients with treatment-resistant depression. These NIMH studies, as well as clinical research by others, have demonstrated robust antidepressant effects in patients with treatment-resistant MDD within twenty-four hours of a single low dose of I.V. ketamine. We believe orally administered AV-101 may have potential to deliver ketamine-like fast-acting antidepressant effects without ketamine’s serious side effects.

We are preparing to launch our Phase 2b clinical study of AV-101 for the adjunctive treatment of MDD in patients with an inadequate response to standard, FDA-approved antidepressants. We currently anticipate commencement of this multi-center, multi-dose, double blind, placebo-controlled Phase 2b efficacy and safety study in the first half of 2017. Dr. Maurizio Fava, Professor of Psychiatry at Harvard Medical School and Director, Division of Clinical Research, Massachusetts General Hospital (MGH) Research Institute, will be the Principal Investigator of our Phase 2b study of AV-101 in MDD. Dr. Fava was the co-Principal Investigator with Dr. A. John Rush of the largest clinical trial conducted in depression to date, the STAR*D study, whose findings were published in journals such as the New England Journal of Medicine (NEJM) and the Journal of the American Medical Association (JAMA). We currently anticipate top line results in this Phase 2b study in the third calendar quarter of 2018.

In addition to clinical development of AV-101, we are advancing potential commercial applications of our human pluripotent stem cell (hPSC) technology platform, including drug rescue and regenerative medicine (RM). Our small molecule drug rescue programs involve using CardioSafe 3D, our customized cardiac bioassay system, to develop new chemical entities (NCEs) for our internal pipeline. Potential RM applications include using blood, cartilage, heart and/or liver cells derived from hPSCs for (A) cell-based therapy, (B) cell repair therapy, and/or (C) tissue engineering. We may pursue these drug rescue and RM applications in collaboration with third-parties.

AV-101 and Major Depressive Disorder

Background

The World Health Organization (*WHO*) estimates that 350 million people worldwide are affected by depression. According to the U.S. National Institutes of Health (*NIH*) major depression is one of the most common mental disorders in the U.S. The NIMH reports that, in 2014, an estimated 15.7 million adults aged 18 or older in the U.S. had at least one major depressive episode in the past year. This represented 6.7 percent of all U.S. adults. According to the U.S. Centers for Disease Control and Prevention (*CDC*) one in 10 Americans over the age of 12 takes an antidepressant medication.

Most standard, FDA-approved antidepressants target neurotransmitter reuptake inhibition – either serotonin (*SSRIs*) or serotonin/norepinephrine (*SNRIs*). Even when effective, these standard depression medications take many weeks to achieve adequate antidepressant effects. Nearly two out of every three drug-treated depression patients, including an estimated 6.9 million drug-treated MDD patients in the U.S., obtain inadequate therapeutic benefit from initial treatment with a standard antidepressant. Unfortunately, even after treatment with as many as four different standard antidepressants, nearly one out of every three drug-treated depression patients do not achieve adequate therapeutic benefits. Such depression patients often seek to treat their depression with non-drug-related approaches, such as Electroconvulsive Therapy (*ECT*), or to augment their inadequate response to standard antidepressants by adding an atypical antipsychotic (such as, for example, aripiprazole) to their treatment regimen, despite the modest potential therapeutic benefit and significant risk of additional side effects with such augmentation options.

All standard antidepressants have risks of significant side effects, including, among others, potentially anxiety, metabolic syndrome, sleep disturbance and sexual dysfunction. They also have a “Black Box” warning due to risks of worsening depression and suicide in certain groups. Use of atypical antipsychotics to augment inadequately performing standard antidepressants increases the risk of serious side effects, including, potentially, tardive dyskinesia, significant weight gain, diabetes and heart disease, while offering only a modest potential increase in therapeutic benefit. Use of *ECT* increases the risk of serious side effects, including, headaches, tiredness, disorientation, intense sleepiness, hallucinations and long-term memory loss.

AV-101

AV-101, our oral new generation antidepressant drug candidate, is in Phase 2 clinical development for the adjunctive treatment of MDD patients with an inadequate response to standard antidepressants. As published in the October 2015 issue of the peer-reviewed, *Journal of Pharmacology and Experimental Therapeutics*, in an article entitled, *The prodrug 4-chlorokynurenine causes ketamine-like antidepressant effects, but not side effects, by NMDA/glycineB-site inhibition*, using well-established preclinical models of depression, AV-101 was shown to induce fast-acting, dose-dependent, persistent and statistically significant antidepressant-like responses, following a single treatment. These responses were equivalent to those seen with a single, sub-anesthetic control dose of the NMDAR antagonist ketamine. In the same preclinical studies, a standard antidepressant, the SSRI fluoxetine, did not induce rapid onset antidepressant-like responses. In addition, these studies confirmed that the fast-acting antidepressive effects of AV-101 were mediated through the GlyB site and involved the activation of a key neurological pathway, the alpha-amino-3-hydroxy-5-methyl-4-isoxazolepropionic acid (*AMPA*) receptor pathway. Activation of the AMPA receptor pathway is a common feature of fast-acting antidepressants.

Following the completion of our NIH-funded, randomized, double blind, placebo-controlled Phase 1a and Phase 1b safety studies, we are now collaborating with the NIMH in a Phase 2a study. Under our February 2015 CRADA, the NIMH is funding, and Dr. Carlos Zarate Jr. of the NIMH as Principal Investigator is conducting, our ongoing Phase 2a efficacy and safety study of AV-101 in subjects with treatment-resistant MDD. The trial is expected to enroll 20 to 28 patients. The first patient was dosed in November 2015, and we currently anticipate receiving topline results in the second quarter of 2017.

We are preparing to launch our Phase 2b clinical study of AV-101 for the adjunctive treatment of MDD in patients with an inadequate response to standard, FDA-approved antidepressants. We anticipate the launch of this Phase 2b study, with Dr. Maurizio Fava of Harvard Medical School serving as Principal Investigator, in the first half of 2017. We anticipate top line results from this Phase 2b study in the third calendar quarter of 2018.

Several preclinical studies support the hypothesis that AV-101 also has the potential to treat multiple CNS disorders and neurodegenerative diseases in addition to depression, including chronic neuropathic pain, epilepsy, Parkinson’s disease and Huntington’s disease, where modulation of the NMDAR, AMPA pathway and/or active metabolites of AV-101 may achieve therapeutic benefit.

CardioSafe 3D™; NCE Drug Rescue and Regenerative Medicine

CardioSafe 3D™ is our customized *in vitro* cardiac bioassay system capable of predicting potential human heart toxicity of small molecule NCEs *in vitro*, long before they are ever tested in animal and human studies. Our current strategic interests involving our stem cell technology platform include (i) advancing current internal efforts focused on *CardioSafe 3D* drug rescue to expand our drug candidate pipeline with selected proprietary small molecule NCEs, leveraging substantial prior research and development investments by pharmaceutical companies and others related to public domain NCEs terminated before FDA approval due to heart toxicity risks and (ii) establishing collaborative arrangements with qualified third-parties focused on RM applications, including (A) cell-based therapy (injection of stem cell-derived mature organ-specific cells obtained through directed differentiation), (B) cell repair therapy (induction of regeneration by biologically active molecules administered alone or produced by infused genetically engineered cells), or (C) tissue engineering (transplantation of *in vitro* grown complex tissues), involving hPSC-derived blood, bone, cartilage, heart and/or liver cells. We may collaborate with one or more third-parties in connection with these potential commercial applications of our stem cell technology platform.

Subsidiaries

VistaGen Therapeutics, Inc., a California corporation (*VistaGen California*), is our wholly-owned subsidiary. Our Condensed Consolidated Financial Statements in this Report also include the accounts of VistaGen California's two wholly-owned subsidiaries, Artemis Neuroscience, Inc., a Maryland corporation, and VistaStem Canada, Inc., a corporation organized under the laws of Ontario, Canada.

Note 2. Basis of Presentation

The accompanying unaudited Condensed Consolidated Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States (*U.S. GAAP*) for interim financial information and with the instructions to Form 10-Q and Rule 8-03 of Regulation S-X. Accordingly, they do not contain all of the information and footnotes required for complete consolidated financial statements. In the opinion of management, the accompanying unaudited Condensed Consolidated Financial Statements reflect all adjustments, which include only normal recurring adjustments, necessary to present fairly our interim financial information. The accompanying Condensed Consolidated Balance Sheet at March 31, 2016 has been derived from our audited consolidated financial statements at that date but does not include all disclosures required by U.S. GAAP. The operating results for the three and six months ended September 30, 2016 are not necessarily indicative of the operating results to be expected for our fiscal year ending March 31, 2017 or for any other interim period or any other future period.

The accompanying unaudited Condensed Consolidated Financial Statements and notes to Condensed Consolidated Financial Statements should be read in conjunction with our audited Consolidated Financial Statements for the fiscal year ended March 31, 2016 contained in our Annual Report on Form 10-K, as filed with the Securities and Exchange Commission (*SEC*) on June 24, 2016.

The accompanying unaudited Condensed Consolidated Financial Statements have been prepared assuming we will continue as a going concern. As a developing-technology company having not yet developed commercial products or achieved sustainable revenues, we have experienced recurring losses and negative cash flows from operations resulting in a deficit of \$136.8 million accumulated from inception through September 30, 2016. We expect losses and negative cash flows from operations to continue for the foreseeable future as we engage in further potential development of AV-101 and launch and execute our drug rescue programs and pursue potential drug development and regenerative medicine opportunities.

Since our inception in May 1998 through September 30, 2016, we have financed our operations and technology acquisitions primarily through the issuance and sale of our equity and debt securities, including convertible promissory notes and short-term promissory notes, for cash proceeds of approximately \$44.3 million, as well as from an aggregate of approximately \$16.4 million of government research grant awards, strategic collaboration payments and other revenues. Additionally, we have issued equity securities with an approximate value at issuance of \$30.1 million in non-cash settlements of certain liabilities, including liabilities for professional services rendered to us or as compensation for such services.

Between April 1, 2016 and May 4, 2016, we sold to accredited investors Series B Preferred Units consisting of 39,714 unregistered shares of our Series B Preferred Stock, par value \$0.001 per share (*Series B Preferred*), and five year warrants to purchase 39,714 shares of our common stock, from which we received cash proceeds of \$278,000. Further, on May 16, 2016 we consummated an underwritten public offering pursuant to which we issued an aggregate of 2,570,040 registered shares of our common stock at the public offering price of \$4.24 per share and five-year warrants to purchase up to 2,705,883 registered shares of common stock, with an exercise price of \$5.30 per share, at the public offering price of \$0.01 per warrant, including shares and warrants issued pursuant to the exercise of the underwriters' over-allotment option (the *May 2016 Public Offering*). We received net cash proceeds of approximately \$9.5 million from the May 2016 Public Offering after deducting fees and expenses. We believe that we currently have sufficient financial resources to fund our expected operations through the first half of 2017, including preparation for and launch of our AV-101 Phase 2b study in MDD. Although our current financial resources are not yet sufficient to complete our AV-101 Phase 2b study when launched, we anticipate raising sufficient additional capital through sales of our securities in 2017 to satisfy our key corporate objectives, including completion of our AV-101 Phase 2b study in 2018. There can be no assurance, however, that future financing will be available in sufficient amounts, in a timely manner, or on terms acceptable to us, if at all. We may also seek research and development collaborations that could generate revenue, as well as government grant awards. Further, strategic collaborations, such as our February 2015 CRADA with the NIMH providing for the NIMH to fund our Phase 2a study of AV-101 in MDD, may provide non-dilutive resources to advance our strategic initiatives while reducing a portion of our future cash outlays and working capital requirements. Although we may seek additional collaborations that could generate revenue, as well as new government grant awards, no assurance can be provided that any such collaborations or awards will occur in the future. Our future working capital requirements will depend on many factors, including, without limitation, the scope and nature of opportunities related to our success and the success of certain other companies in clinical trials, including our development of AV-101 as a treatment for MDD and other CNS conditions, and our stem cell technology platform, the availability of, and our ability to obtain, government grant awards and our ability to enter into collaborations on terms acceptable to us. To further advance the clinical development of AV-101 and our stem cell technology platform, as well as support our operating activities, we plan to continue to carefully manage our routine operating costs, including our employee headcount and related expenses, as well as costs relating to regulatory consulting, contract research and development, investor relations and corporate development, legal, accounting, public company compliance and other professional services and working capital costs.

Notwithstanding the foregoing, substantial additional financing may not be available to us on a timely basis, on acceptable terms, or at all. If we are unable to obtain substantial additional financing on a timely basis in the near term, our business, financial condition, and results of operations may be harmed, the price of our stock may decline, we may be required to reduce, defer, or discontinue certain of our research and development activities and we may not be able to continue as a going concern. These unaudited Condensed Consolidated Financial Statements do not include any adjustments that might result from the outcome of this uncertainty.

Note 3. Summary of Significant Accounting Policies

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant estimates include those relating to share-based compensation, and assumptions that have been used to value warrants, warrant modifications, warrant liabilities. We do not currently have, nor have we had during the periods covered by this report, any arrangements requiring the recognition of revenue.

Research and Development Expenses

Research and development expenses are composed of both internal and external costs. Internal costs include salaries and employment-related expenses of scientific personnel and direct project costs. External research and development expenses consist primarily of costs associated with nonclinical and clinical development of AV-101, now in Phase 2 clinical development, initially for Major Depressive Disorder, stem cell technology-related research and development costs, and costs related to the filing, maintenance and prosecution of patents and patent applications. All such costs are charged to expense as incurred.

Stock-Based Compensation

We recognize compensation cost for all stock-based awards to employees or consultants based on the grant date fair value of the award. Non-cash, stock-based compensation expense is recognized over the period during which the employee or consultant is required to perform services in exchange for the award, which generally represents the scheduled vesting period. We have no awards with market or performance conditions. For equity awards to non-employees, we re-measure the fair value of the awards as they vest and the resulting value is recognized as an expense during the period over which the services are performed.

The table below summarizes stock-based compensation expense included in the accompanying Condensed Consolidated Statements of Operations and Comprehensive Loss for the three and six months ended September 30, 2016 and 2015.

	Three Months Ended September 30,		Six Months Ended September 30,	
	2016	2015	2016	2015
Research and development expense:				
Stock option grants	\$ 82,000	\$ 31,900	\$ 126,000	\$ 47,400
Warrants granted to officer in March 2014	-	2,900	-	5,700
Warrants granted to officer in September 2015	-	852,200	-	852,200
	<u>82,000</u>	<u>887,000</u>	<u>126,000</u>	<u>905,300</u>
General and administrative expense:				
Stock option grants	116,800	9,100	180,700	16,100
Warrants granted to officers and directors in March 2014	-	3,900	-	7,800
Warrants granted to officers, directors and consultants in September 2015	-	2,840,700	-	2,840,700
	<u>116,800</u>	<u>2,853,700</u>	<u>180,700</u>	<u>2,864,600</u>
Total stock-based compensation expense	<u>\$ 198,800</u>	<u>\$ 3,740,700</u>	<u>\$ 306,700</u>	<u>\$ 3,769,900</u>

In June 2016, our Board of Directors (the *Board*) approved the grant of options to purchase an aggregate of 655,000 shares of our common stock at an exercise price of \$3.49 per share to the independent members of our Board and to our officers, including our newly-hired Chief Medical Officer. In September 2016, the Board approved the grant of an option to purchase 125,000 shares of our common stock at an exercise price of \$4.27 per share to another newly-hired officer. At September 30, 2016, there were stock options outstanding to purchase 1,100,643 shares of our common stock at a weighted average exercise price of \$5.26 per share. We valued the options granted in June 2016 and September 2016 using the Black-Scholes Option Pricing Model and the following weighted average assumptions:

Assumption:	June 2016	September 2016
Market price per share at grant date	\$ 3.49	\$ 4.27
Exercise price per share	\$ 3.49	\$ 4.27
Risk-free interest rate	1.34%	1.29%
Contractual or estimated term in years	6.68	6.25
Volatility	81.69%	83.26%
Dividend rate	0.0%	0.0%
Shares	655,000	125,000
Fair Value per share	\$ 2.50	\$ 3.05

During September 2015, our Board approved the grant of options to purchase an aggregate of 90,000 shares of our common stock at an exercise price of \$9.25 per share to our non-officer employees and certain consultants. The Board also granted immediately vested warrants to purchase an aggregate of 650,000 shares of our common stock to our executive officers, independent members of our Board and certain consultants. We valued the warrants and options granted in September 2015 using the Black-Scholes Option Pricing Model and the following assumptions:

Assumption:	Warrants	Employee Options	Non-employee Options
Market price per share at grant date	\$ 9.11	\$ 9.11	\$ 9.11
Exercise price per share	\$ 9.25	\$ 9.25	\$ 9.25
Risk-free interest rate	1.52%	2.02%	2.20%
Contractual or estimated term in years	5.00	6.25	10.00
Volatility	77.19%	79.48%	103.42%
Dividend rate	0.0%	0.0%	0.0%
Shares	650,000	60,000	30,000
Fair Value per share	\$ 5.68	\$ 6.35	\$ 8.27

Comprehensive Loss

We have no components of other comprehensive loss other than net loss, and accordingly our comprehensive loss is equivalent to our net loss for the periods presented.

Income (Loss) per Common Share

Basic net income (loss) per share of common stock excludes the effect of dilution and is computed by dividing net income (loss) by the weighted-average number of shares of common stock outstanding for the period. Diluted net income (loss) per share of common stock reflects the potential dilution that could occur if securities or other contracts to issue shares of common stock were exercised or converted into shares of common stock. In calculating diluted net income (loss) per share, we have historically adjusted the numerator for the change in the fair value of the warrant liability attributable to outstanding warrants, only if dilutive, and increased the denominator to include the number of potentially dilutive common shares assumed to be outstanding during the period using the treasury stock method. The change in the fair value of the warrant liability, which was eliminated in May 2015, had no impact on the diluted net earnings per share calculation in any period included in these unaudited Condensed Consolidated Financial Statements.

As a result of our net loss for the periods presented, potentially dilutive securities were excluded from the computation of net loss per share, as their effect would be antidilutive. For the three and six month periods ended September 30, 2016 and 2015, the accrual for dividends on our Series B Preferred and the deemed dividend attributable to the issuance of our Series B Preferred Units represent deductions from our net loss to arrive at net loss attributable to common stockholders for those periods.

Potentially dilutive securities excluded in determining diluted net loss attributable to common stockholders per common share are as follows:

	As of September 30,	
	2016	2015
Series A Preferred stock issued and outstanding ⁽¹⁾	750,000	750,000
Series B Preferred stock issued and outstanding ⁽²⁾	1,160,240	3,426,523
Series C Preferred stock issued and outstanding ⁽³⁾	2,318,012	-
Outstanding options under the 2008 and 1999 Stock Incentive Plans	1,100,643	296,738
Outstanding warrants to purchase common stock	4,678,414	4,687,211
Warrant shares issuable to PLTG upon exchange of Series A Preferred under the terms of the October 11, 2012 Note Exchange and Purchase Agreement, as subsequently amended	-	535,715
Total	10,007,309	9,696,187

⁽¹⁾ Assumes exchange under the terms of the October 11, 2012 Note Exchange and Purchase Agreement with PLTG, as amended

⁽²⁾ Assumes exchange under the terms of the Certificate of Designation of the Relative Rights and Preferences of the Series B 10% Convertible Preferred Stock, effective May 5, 2015

⁽³⁾ Assumes exchange under the terms of the Certificate of Designation of the Relative Rights and Preferences of the Series C Convertible Preferred Stock, effective January 25, 2016

Recent Accounting Pronouncements

Other than as identified below, there have been no recent accounting pronouncements or changes in accounting pronouncements during the six months ended September 30, 2016, as compared to the recent accounting pronouncements described in the Company's Form 10-K for the fiscal year ended March 31, 2016, that are of significance or potential significance to the Company.

In August 2016, the Financial Accounting Standards Board issued guidance to reduce the diversity in the presentation of certain cash receipts and cash payments presented and classified in the statement of cash flows. The guidance addresses the following eight specific cash flow issues: (1) debt prepayment or debt extinguishment costs, (2) settlement of zero-coupon debt instruments or other debt instruments with coupon interest rates that are insignificant in relation to the effective interest rate of the borrowing, (3) contingent consideration payments made after a business combination, (4) proceeds from the settlement of insurance claims, (5) proceeds from settlement of corporate-owned life insurance policies, including bank-owned life insurance policies, (6) distributions received from equity method investees, (7) beneficial interests in securitization transitions and (8) separately identifiable cash flows and application of predominance principle. The guidance will be effective for fiscal years and interim periods beginning after December 15, 2017, and early adoption is permitted. The guidance requires retrospective adoption. We are evaluating the effect that ASU No. 2016-15 will have on our consolidated financial statements and related disclosures.

Note 4. Fair Value Measurements

We do not use derivative instruments for hedging of market risks or for trading or speculative purposes.

In conjunction with certain Senior Secured Convertible Promissory Notes that we issued to Platinum Long Term Growth VII, LLC (PLTG) between October 2012 and July 2013 and the related PLTG Warrants, and the contingently issuable Series A Exchange Warrant, we determined that the warrants included certain exercise price and other adjustment features requiring the warrants to be treated as liabilities, which were recorded at their issuance-date estimated fair values and marked to market at each subsequent reporting period. We determined the fair value of the warrant liabilities using Level 3 (unobservable) inputs, since there was minimal comparable external market data available. Inputs used to determine fair value included the remaining contractual term of the warrants, risk-free interest rates, expected volatility of the price of the underlying common stock, and the probability of a financing transaction that would trigger a reset in the warrant exercise price, and, in the case of the Series A Exchange Warrant, the probability of PLTG's exchange of the shares of Series A Preferred it holds into shares of common stock. The change in the fair value of these warrant liabilities between March 31, 2015 and their subsequent elimination (described below) was recognized as a non-cash expense in the Condensed Consolidated Statement of Operations and Comprehensive Loss for the three months ended June 30, 2015.

On May 12, 2015, we entered into an agreement with PLTG pursuant to which PLTG agreed to amend the PLTG Warrants to (i) fix the exercise price thereof at \$7.00 per share, (ii) eliminate the exercise price reset features and (iii) fix the number of shares of our common stock issuable thereunder. This agreement and the related modification of the PLTG Warrants resulted in the elimination of the warrant liability with respect to the PLTG Warrants during the quarter ended June 30, 2015.

In January 2016, we entered into an Exchange Agreement with PLTG pursuant to which PLTG exchanged all outstanding PLTG Warrants plus the shares issuable pursuant to the Series A Preferred Exchange Warrant for unregistered shares of our Series C Convertible Preferred Stock (*Series C Preferred*) in the ratio of 0.75 share of Series C Preferred for each warrant share cancelled.

We carried no assets or liabilities at fair value at September 30, 2016 or March 31, 2016.

Note 5. Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets are composed of the following at September 30, 2016 and March 31, 2016:

	<u>September 30, 2016</u>	<u>March 31, 2016</u>
Insurance	\$ 94,900	\$ 27,000
Prepaid compensation under financial advisory and other consulting agreements	550,800	337,500
Public offering expenses	-	57,400
Technology license fees and all other	3,200	4,900
	<u>\$ 648,900</u>	<u>\$ 426,800</u>

Note 6. Accrued Expenses

Accrued expenses are composed of the following at September 30, 2016 and March 31, 2016:

	<u>September 30, 2016</u>	<u>March 31, 2016</u>
Accrued professional services	\$ 133,000	\$ 318,000
Accrued AV-101 development expenses	662,000	186,000
Accrued compensation	-	310,000
	<u>\$ 795,000</u>	<u>\$ 814,000</u>

Note 7. Notes Payable

The following table summarizes our unsecured promissory notes at September 30, 2016 and March 31, 2016.

	<u>September 30, 2016</u>			<u>March 31, 2016</u>		
	<u>Principal Balance</u>	<u>Accrued Interest</u>	<u>Total</u>	<u>Principal Balance</u>	<u>Accrued Interest</u>	<u>Total</u>
5.75% Note payable to insurance premium financing company (current)	\$ 71,100	\$ -	\$ 71,100	\$ -	\$ -	\$ -
7.0% Note payable to Progressive Medical Research	\$ -	\$ -	\$ -	\$ 58,800	\$ 12,000	\$ 70,800
less: current portion	-	-	-	(31,600)	(12,000)	(43,600)
7.0% Notes payable - non-current portion	\$ -	\$ -	\$ -	\$ 27,200	\$ -	\$ 27,200
Total notes payable to unrelated parties	\$ 71,100	\$ -	\$ 71,100	\$ 58,800	\$ 12,000	\$ 70,800
less: current portion	(71,100)	-	(71,100)	(31,600)	(12,000)	(43,600)
Net non-current portion	\$ -	\$ -	\$ -	\$ 27,200	\$ -	\$ 27,200

Between May 2015 and August 2015, we extinguished the outstanding balances of approximately \$17,200,000 of indebtedness, including all senior secured promissory notes and a substantial portion of other indebtedness that was either due and payable or would have become due and payable prior to March 31, 2016, by converting such indebtedness into shares of our Series B Preferred.

Evaluating each converted note or debt class separately, we determined that the conversion of each of such notes and other debt instruments into Series B Preferred should be accounted for as an extinguishment of debt. Because the fair value of the Series B Preferred into which the debt instruments were converted in all cases exceeded the carrying value of the debt, we recorded an aggregate non-recurring non-cash loss on extinguishment of debt of \$26,700,200, in our fiscal year ended March 31, 2016, of which \$25,050,900 was recorded in the quarter ended June 30, 2015, and the remaining \$1,649,300 was recorded in the quarter ended September 30, 2015, as reflected in the accompanying Consolidated Statement of Operations and Comprehensive Loss for that period.

On January 5, 2016, we paid in full the \$33,300 outstanding balance (principal and accrued but unpaid interest) of the promissory note previously issued to the University of California in connection with our collaborative research and development relationship with the University of California at Davis.

On June 13, 2016, we paid in full the \$71,600 outstanding balance (principal and accrued but unpaid interest) of the promissory note we issued to Progressive Medical Research (PMR) in connection with our clinical development relationship with PMR.

In May 2016, we executed a promissory note in the face amount of \$117,500 in connection with certain insurance policy premiums. The note is payable in monthly installments of \$12,100, including principal and interest, through March 2017, and the remaining balance of such note as of September 30, 2016 was \$71,100.

Note 8. Capital Stock

Series B Preferred Unit Offering

In April and May 2016, in self-placed private placement transactions, we sold to accredited investors an aggregate of \$278,000 of units in our Series B Preferred Unit offering, which units consist of Series B Preferred and Series B Warrants (together *Series B Preferred Units*). We issued 39,714 shares of Series B Preferred and Series B Warrants to purchase 39,714 shares of our common stock. Through the termination of the Series B Preferred Unit offering in May 2016, we received an aggregate of \$5,303,800 in cash proceeds from our self-placed private placement and sale of the Series B Preferred Units.

We allocated the proceeds from the sale of the Series B Preferred Units during April and May 2016 to the Series B Preferred and the Series B Warrants based on their relative fair values on the dates of the sales. We determined that the fair value of a share of Series B Preferred was equal to the quoted market value of a share of our common stock on the date of a Series B Preferred Unit sale. We calculated the fair value of the Series B Warrants using the Black Scholes Option Pricing Model and the weighted average assumptions indicated in the table below. The table below also presents the aggregate allocation of the Series B Preferred Unit sales proceeds based on the relative fair values of the Series B Preferred and the Series B Warrants as of their respective Series B Preferred Unit sales dates. The difference between the relative fair value per share of the Series B Preferred, approximately \$4.20 per share, and its Conversion Price (or stated value) of \$7.00 per share represents a deemed dividend to the purchasers of the Series B Preferred Units. Accordingly, we have recognized a deemed dividend in the aggregate amount of \$111,100 in arriving at net loss attributable to common stockholders in the accompanying Condensed Consolidated Statement of Operations and Comprehensive Loss for the six months ended September 30, 2016.

Warrant Shares Issued	Unit Warrants							Per Share Fair Value of Warrant	Aggregate Fair Value of Unit Warrants	Aggregate Proceeds of Unit Sales	Aggregate Allocation of	
	Weighted Average Issuance Date Valuation Assumptions										Proceeds Based on	
	Market Price	Exercise Price	Term (Years)	Risk free		Dividend Rate	Volatility				Unit Stock	Unit Warrant
39,714	\$ 8.45	\$ 7.00	5.00	Interest Rate	1.27%	78.43%	0.0%	\$ 5.63	\$ 223,500	\$ 278,000	\$ 166,900	\$ 61,100

May 2016 Public Offering and NASDAQ Uplisting

Effective on May 16, 2016, we consummated an underwritten public offering of our securities, pursuant to which we issued an aggregate of 2,570,040 registered shares of our common stock at a public sales price of \$4.24 per share and five-year warrants exercisable at \$5.30 per share to purchase an aggregate of 2,705,883 shares of our common stock at a public sales price of \$0.01 per warrant share, including shares and warrants issued in June 2016 pursuant to the exercise of the underwriters' over-allotment option (the *May 2016 Public Offering*). We received gross proceeds of approximately \$10.9 million and net proceeds of approximately \$9.5 million from the May 2016 Public Offering, after deducting underwriters' commissions and other offering expenses. The warrants issued in the May 2016 Public Offering have no anti-dilution or other exercise price or share reset features, except as is customary with respect to a change in the Company's capital structure in the event of a stock split or dividend, and, accordingly, we have accounted for them as equity warrants.

The securities included in the May 2016 Public Offering Warrants were offered, issued and sold under a prospectus filed with the Securities and Exchange Commission (SEC) pursuant to an effective registration statement (*Registration Statement*) filed with the SEC on Form S-1 (File No. 333-210152) pursuant to the Securities Act of 1933, as amended (*Securities Act*). The Registration Statement was first filed with the SEC on March 14, 2016, and was declared effective on May 10, 2016.

In connection with the completion of our May 2016 Public Offering, our common stock was approved for listing on The NASDAQ Capital Market, and began trading under the symbol "VTGN" on May 11, 2016.

Conversion of Series B Preferred into Common Stock

During April 2016, prior to the May 2016 Public Offering, holders of an aggregate of 7,500 shares of Series B Preferred voluntarily converted such shares into an equivalent number of registered shares of our common stock. In connection with such conversions, we issued an aggregate of 510 shares of our unregistered common stock as payment in full of \$4,000 in accrued dividends on the Series B Preferred that was voluntarily converted.

On May 19, 2016, upon the consummation of the May 2016 Public Offering, an aggregate of 2,403,051 shares of Series B Preferred were automatically converted into an aggregate of 2,192,847 registered shares of our common stock and an aggregate of 210,204 shares of our unregistered common stock. Additionally, we issued an aggregate of 416,806 shares of our unregistered common stock as payment in full of \$1,642,100 in accrued dividends on the Series B Preferred that was automatically converted, at the rate of one share of common stock for each \$3.94 of accrued Series B Preferred dividends. On June 15, 2016, pursuant to the underwriters' exercise of their over-allotment option, an additional 44,500 shares of Series B Preferred were converted into 44,500 shares of our registered common stock. We issued an additional 9,580 shares of our unregistered common stock as payment in full of \$37,400 in accrued dividends on the Series B Preferred that was automatically converted, at the rate of one share of common stock for each \$3.90 in accrued dividends.

In August 2016, one of the remaining holders of our Series B Preferred voluntarily converted 87,500 shares of Series B Preferred into an equivalent number of registered shares of our common stock. In connection with this conversion, we issued 26,258 shares of our unregistered common stock as payment in full of \$85,300 in accrued dividends on the Series B Preferred that was voluntarily converted.

Issuance of Common Stock to Professional Services Providers

In September 2016, we issued an aggregate of 170,000 shares of our unregistered common stock having an aggregate fair value on the date of issuance of \$737,800 to various professional services providers. Of that amount, we issued 120,000 shares having a fair value of \$520,800 on the date of issuance for services to be rendered from October 2016 to December 2016. The value of these shares has been recorded as a prepaid expense at September 30, 2016 and will be expensed during the quarter ended December 31, 2016.

Modification of Warrants

Between April 1, 2016 and May 4, 2016, we entered into Warrant Exchange Agreements with certain holders of outstanding warrants to purchase an aggregate of 41,469 shares of our common stock pursuant to which the holders agreed to the cancellation of such warrants in exchange for the issuance of an aggregate of 31,238 shares of our unregistered common stock.

We accounted for the exchange of these warrants as warrant modifications, comparing their fair value prior to the exchange with the fair value of the common stock issued. We calculated the weighted average fair value of the warrants prior to the exchange to be \$5.37 per share, or \$223,700, using the Black Scholes Option Pricing Model and the following weighted average assumptions: market price per share: \$8.44; exercise price per share: \$7.37; risk-free interest rate: 1.23%; remaining contractual term: 4.77 years; volatility: 79.0%; and expected dividend rate: 0%. The weighted average fair value of the aggregate of 31,238 shares of common stock issued in the exchange was \$8.45 per share or \$264,000. Accordingly, we recognized the additional fair value, \$40,300, as warrant modification expense, included as a component of general and administrative expenses in our Condensed Consolidated Statement of Operations and Comprehensive Loss for the quarter ended June 30, 2016.

In August 2016, we entered into Warrant Exchange Agreements with holders of outstanding warrants to purchase an aggregate of 20,000 shares of our common stock pursuant to which the holders agreed to the cancellation of such warrants in exchange for the issuance of an aggregate of 15,000 shares of our unregistered common stock. We likewise accounted for the exchange of these warrants as warrant modifications. We calculated the weighted average fair value of the warrants prior to the exchange to be \$1.64 per share, or \$32,900, using the Black Scholes Option Pricing Model and the following weighted average assumptions: market price per share: \$3.33; exercise price per share: \$8.00; risk-free interest rate: 1.10%; remaining contractual term: 4.58 years; volatility: 87.0%; and expected dividend rate: 0%. The weighted average fair value of the aggregate of 15,000 shares of common stock issued in the exchange was \$3.33 per share or \$50,000. Accordingly, we recognized the additional fair value, \$17,100, as warrant modification expense, included as a component of general and administrative expenses in the accompanying Condensed Consolidated Statement of Operations and Comprehensive Loss for the quarter ended September 30, 2016.

Warrants Outstanding

Following the warrant issuances in the May 2016 Public Offering, the Series B Warrant issuances and the warrant exchanges described above, at September 30, 2016, we had outstanding warrants to purchase shares of our common stock at a weighted average exercise price of \$6.44 per share as follows:

Exercise Price per Share	Expiration Date	Shares Subject to Purchase at September 30, 2016
\$ 4.50	9/26/2019	25,000
\$ 5.30	5/16/2021	2,705,883
\$ 6.00	9/26/2019	75,000
\$ 7.00	12/11/2018 to 3/3/2023	1,417,125
\$ 8.00	3/25/2021	210,000
\$ 10.00	8/31/2016 to 1/11/2020	131,358
\$ 20.00	9/15/2019	110,448
\$ 30.00	11/20/2017	3,600
		4,678,414

With the exception of 2,705,883 shares of common stock underlying the warrants issued in the May 2016 Public Offering, all of the common shares underlying our outstanding warrants are unregistered.

Note 9. Related Party Transactions

Cato Holding Company (*CHC*), doing business as Cato BioVentures (*CBV*), is the parent of Cato Research Ltd (*CRL*). *CRL* is a contract research, development and regulatory services organization (*CRO*) engaged by us for certain aspects of the development of AV-101. *CBV* is among our largest institutional stockholders at September 30, 2016, holding approximately 7.5% of our outstanding common stock. Shawn Singh, our Chief Executive Officer and member of our Board of Directors, served as Managing Principal of *CBV* and Chief Business Officer and General Counsel of *CRL* from February 2001 to August 2009. On October 10, 2012, we issued to *CBV* an unsecured promissory note in the principal amount of \$310,400 (the *2012 CBV Note*) and a five-year warrant to purchase 12,500 restricted shares of our common stock at a price of \$30.00 per share (the *CBV Warrant*). Additionally, on October 10, 2012, we issued to *CRL*: (i) an unsecured promissory note in the initial principal amount of \$1,009,000, payable solely in restricted shares of our common stock and which accrued interest at the rate of 7.5% per annum, compounded monthly (the *CRL Note*), as payment in full for all contract research and development services and regulatory advice rendered to us by *CRL* through December 31, 2012 with respect to *CRO* services, including regulatory strategy and preclinical and clinical development of AV-101, and (ii) a five-year warrant to purchase, at a price of \$20.00 per share, 50,450 restricted shares of our common stock, such number of shares to be adjusted in relation to accrued interest on the *CRL Note* (*CRL Warrant*). The *Cato Notes* and additional amounts payable to *CRL* for *CRO* services were extinguished in June 2015 in exchange for our issuance of an aggregate of 328,571 shares of Series B Preferred to *CBV*, which shares of Series B Preferred were automatically converted into an equal number of registered shares of our common stock in connection with the May 2016 Public Offering. *CBV* also participated in our February 2016 warrant exchange, exchanging the *CBV Warrant* and the *CRL Warrant*, as adjusted to reflect accrued interest, for an aggregate of 54,894 shares of our unregistered common stock.

Under the terms of our *CRO* arrangement with *CRL* related to the development of AV-101, we incurred expenses of \$27,800 and \$10,900 for the quarters ended September 30, 2016 and 2015, respectively, and \$78,200 and \$22,100 in the six month periods ended September 30, 2016 and 2015, respectively. Total interest expense, including amortization of note discount, on the notes payable to *CBV* and *CRL* was \$28,200 for the three-month period ended June 30, 2015 during which the notes were extinguished.

Note 10. Subsequent Events

We have evaluated subsequent events through November 11, 2016 and have identified the following matters requiring disclosure:

Warrants Exchanged for Common Stock

In October 2016, we entered into a Warrant Exchange Agreement with a holder of outstanding warrants to purchase 113,944 shares of our common stock pursuant to which the holder agreed to cancel such warrants in exchange for the issuance of 85,458 restricted shares of our common stock.

Issuance of Common Stock for Professional Services

Effective November 1, 2016, we issued 25,000 shares of our unregistered common stock as partial compensation for investor relations, market awareness and other services.

Stock Option Grants

Effective November 9, 2016, our Board authorized the grant of stock options to purchase an aggregate of 560,000 shares of our common stock pursuant to our Amended and Restated 2016 Stock Incentive Plan. Options were granted to independent members of our Board and our officers and employees. The ten-year options are exercisable at \$3.80 per share and vest over a period of three years.

Lease Extension

Effective November 10, 2016, we entered into an amendment to the lease of our headquarters facility, pursuant to which the term of the lease was extended from July 31, 2017 to July 31, 2022 and the base rent under the lease for the five-year extension period was specified. A copy of the amended lease is attached to this Quarterly Report on Form 10-Q.

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

Cautionary Note Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q (Quarterly Report) includes forward-looking statements. All statements contained in this Quarterly Report other than statements of historical fact, including statements regarding our future results of operations and financial position, our business strategy and plans, and our objectives for future operations, are forward-looking statements. The words "believe," "may," "estimate," "continue," "anticipate," "intend," "expect" and similar expressions are intended to identify forward-looking statements. We have based these forward-looking statements largely on our current expectations and projections about future events and trends that we believe may affect our financial condition, results of operations, business strategy, short-term and long-term business operations and objectives, and financial needs. These forward-looking statements are subject to a number of risks, uncertainties and assumptions. Our business is subject to significant risks including, but not limited to, our ability to obtain additional financing, the results of our research and development efforts, the results of non-clinical and clinical testing, the effect of regulation by the United States Food and Drug Administration (FDA) and other agencies, the impact of competitive products, product development, commercialization and technological difficulties, the effect of our accounting policies, and other risks as detailed in the section entitled "Risk Factors" in this Quarterly Report. Further, even if our product candidates appear promising at various stages of development, our share price may decrease such that we are unable to raise additional capital without significant dilution or other terms that may be unacceptable to our management, Board of Directors and stockholders.

Moreover, we operate in a very competitive and rapidly changing environment. New risks emerge from time to time. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties and assumptions, the future events and trends discussed in this Quarterly Report may not occur and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements.

You should not rely upon forward-looking statements as predictions of future events. The events and circumstances reflected in the forward-looking statements may not be achieved or occur. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. We are under no duty to update any of these forward-looking statements after the date of this Quarterly Report or to conform these statements to actual results or revised expectations. If we do update one or more forward-looking statements, no inference should be drawn that we will make additional updates with respect to those or other forward-looking statements.

Business Overview

We are a clinical-stage biopharmaceutical company dedicated to developing and commercializing innovative product candidates for patients with diseases and disorders involving the central nervous system (CNS). Unless the context otherwise requires, the words "VistaGen Therapeutics, Inc." "VistaGen," "we," "the Company," "us" and "our" refer to VistaGen Therapeutics, Inc., a Nevada corporation. All references to future quarters and years in this Item 2 refer to calendar quarters and calendar years, unless reference is made otherwise.

Our lead product candidate, AV-101, is a new generation, oral antidepressant drug candidate in Phase 2 development, initially for the adjunctive treatment of Major Depressive Disorder (MDD) in patients with an inadequate response to standard antidepressants approved by the U.S. Food and Drug Administration (FDA). We believe AV-101 may also have therapeutic potential in other CNS indications, including chronic neuropathic pain, epilepsy, Huntington's disease and Parkinson's disease.

AV-101's mechanism of action, as an N-methyl D aspartate receptor (NMDAR) antagonist binding selectively at the glycine binding (GlyB) co-agonist site of the NMDAR, is fundamentally differentiated from all FDA-approved antidepressants, as well as all atypical antipsychotics used to augment standard antidepressant therapy.

We are preparing to launch our Phase 2b clinical study of AV-101 for the adjunctive treatment of MDD in patients with an inadequate response to standard, FDA-approved antidepressants (*Phase 2b Study*). We currently anticipate commencement of this multi-center, multi-dose, double blind, placebo-controlled Phase 2b efficacy and safety study in the first half of 2017. Dr. Maurizio Fava, Professor of Psychiatry at Harvard Medical School and Director, Division of Clinical Research, Massachusetts General Hospital (*MGH*) Research Institute, will be the Principal Investigator of our Phase 2b Study. Dr. Fava was the co-Principal Investigator with Dr. A. John Rush of the largest clinical trial conducted in depression to date, the STAR*D study, whose findings were published in journals such as the *New England Journal of Medicine (NEJM)* and the *Journal of the American Medical Association (JAMA)*. We currently anticipate top line results in this Phase 2b Study in the third quarter of 2018.

In addition to clinical development of AV-101, we are advancing potential commercial applications of our human pluripotent stem cell (*hPSC*) technology platform, including drug rescue and regenerative medicine (*RM*). Our small molecule drug rescue programs involve using CardioSafe 3D, our customized cardiac bioassay system, to develop new chemical entities (*NCEs*) for our internal pipeline. Potential *RM* applications include using blood, cartilage, heart and/or liver cells derived from *hPSCs* for (A) cell-based therapy, (B) cell repair therapy, and/or (C) tissue engineering. We may pursue these drug rescue and *RM* applications in collaboration with third-parties.

AV-101 and Major Depressive Disorder

Background

The World Health Organization (*WHO*) estimates that 350 million people worldwide are affected by depression. According to the U.S. National Institutes of Health (*NIH*) major depression is one of the most common mental disorders in the U.S. The NIMH reports that, in 2014, an estimated 15.7 million adults aged 18 or older in the U.S. had at least one major depressive episode in the past year. This represented 6.7 percent of all U.S. adults. According to the U.S. Centers for Disease Control and Prevention (*CDC*) one in 10 Americans over the age of 12 takes an antidepressant medication.

Most standard, FDA-approved antidepressants target neurotransmitter reuptake inhibition – either serotonin (*SSRIs*) or serotonin/norepinephrine (*SNRIs*). Even when effective, these standard depression medications take many weeks to achieve adequate antidepressant effects. Nearly two out of every three drug-treated depression patients, including an estimated 6.9 million drug-treated MDD patients in the U.S., obtain inadequate therapeutic benefit from initial treatment with a standard antidepressant. Unfortunately, even after treatment with as many as four different standard antidepressants, nearly one out of every three drug-treated depression patients do not achieve adequate therapeutic benefits. Such treatment-resistant depression patients often seek to treat their depression with non-drug-related approaches, such as Electroconvulsive Therapy (*ECT*), or to augment their inadequate response to standard antidepressants by adding an atypical antipsychotic (such as, for example, aripiprazole) to their treatment regimen, despite only modest potential therapeutic benefit and significant risk of additional side effects from such augmentation options.

All standard antidepressants have risks of significant side effects, including, among others, potentially anxiety, metabolic syndrome, sleep disturbance and sexual dysfunction. They also have a “Black Box” warning due to risks of worsening depression and suicide in certain groups. Use of atypical antipsychotics to augment inadequately performing standard antidepressants increases the risk of serious side effects, including, potentially, tardive dyskinesia, significant weight gain, diabetes and heart disease, while offering only a modest potential increase in therapeutic benefit. Use of *ECT* increases the risk of serious side effects, including, headaches, tiredness, disorientation, intense sleepiness, hallucinations and long-term memory loss.

AV-101

AV-101, our oral new generation antidepressant drug candidate, is in Phase 2 clinical development, initially for the adjunctive treatment of MDD patients with an inadequate response to standard antidepressants. As published in the October 2015 issue of the peer-reviewed, *Journal of Pharmacology and Experimental Therapeutics*, in an article entitled, *The prodrug 4-chlorokynurenine causes ketamine-like antidepressant effects, but not side effects, by NMDA/glycineB-site inhibition*, using well-established preclinical models of depression, AV-101 was shown to induce fast-acting, dose-dependent, persistent and statistically significant antidepressant-like responses, following a single treatment. These responses were equivalent to those seen with a single, sub-anesthetic control dose of the NMDAR antagonist ketamine. In the same preclinical studies, a standard antidepressant, the SSRI fluoxetine, did not induce rapid onset antidepressant-like responses. In addition, these studies confirmed that the fast-acting antidepressive effects of AV-101 were mediated through the GlyB site and involved the activation of a key neurological pathway, the alpha-amino-3-hydroxy-5-methyl-4-isoxazolepropionic acid (AMPA) receptor pathway. Activation of the AMPA receptor pathway is a common feature of fast-acting antidepressants.

Following the completion of our NIH-funded, randomized, double blind, placebo-controlled AV-101 Phase 1a and Phase 1b safety studies, we are now collaborating with the NIMH in a Phase 2a study. Under our February 2015 CRADA, the NIMH is funding, and Dr. Carlos Zarate Jr. of the NIMH as Principal Investigator is conducting, our ongoing Phase 2a efficacy and safety study of AV-101 in subjects with treatment-resistant MDD. The trial is expected to enroll 20 to 28 patients. The first patient was dosed in November 2015, and we currently anticipate topline results in the second quarter of 2017.

We are preparing to launch our Phase 2b Study of AV-101 for the adjunctive treatment of MDD in patients with an inadequate response to standard, FDA-approved antidepressants. We currently anticipate the launch of the Phase 2b Study, with Dr. Maurizio Fava of Harvard Medical School serving as Principal Investigator, in the first half of 2017. We currently anticipate topline results from the Phase 2b Study in the third quarter of 2018.

We believe several preclinical studies support the hypothesis that AV-101 also has the potential to treat multiple CNS disorders and neurodegenerative diseases in addition to MDD, including chronic neuropathic pain, epilepsy, Parkinson's disease and Huntington's disease, where modulation of the NMDAR, AMPA pathway and/or active metabolites of AV-101 may achieve therapeutic benefit.

CardioSafe 3D™; NCE Drug Rescue and Regenerative Medicine

CardioSafe 3D™ is our customized *in vitro* cardiac bioassay system capable of predicting potential human heart toxicity of small molecule NCEs *in vitro*, long before they are ever tested in animal and human studies. We are currently focused on potential commercial applications of our stem cell technology platform involving (i) use of *CardioSafe 3D* for small molecule NCE drug discovery and drug rescue to expand our drug candidate pipeline, leveraging substantial prior research and development investments by pharmaceutical companies and others related to public domain NCEs terminated before FDA approval due to heart toxicity risks and (ii) RM, including (A) cell-based therapy (injection of stem cell-derived mature organ-specific cells obtained through directed differentiation), (B) cell repair therapy (induction of regeneration by biologically active molecules administered alone or produced by infused genetically engineered cells), or (C) tissue engineering (transplantation of *in vitro* grown complex tissues) using hPSC-derived blood, bone, cartilage, heart and/or liver cells. We may collaborate with one or more third-parties in connection with these potential commercial applications of our stem cell technology platform.

Financial Operations Overview and Results of Operations

Our critical accounting policies and estimates and recent accounting pronouncements are disclosed in our Annual Report on Form 10-K for the fiscal year ended March 31, 2016, as filed with the SEC on June 24, 2016, and in Note 3 to the accompanying unaudited Condensed Consolidated Financial Statements included in Part 1, Item 1 of this Quarterly Report on Form 10-Q.

Summary

Net Loss

We have not yet achieved revenue-generating status from any of our product candidates or technologies. Since inception, we have devoted substantially all of our time and efforts to developing our lead CNS product candidate, AV-101, from early preclinical studies to our ongoing Phase 2 clinical development programs in MDD, as well as stem cell technology research and development, bioassay development, small molecule drug development, and creating, protecting and patenting intellectual property related to our product candidates and technologies, with the corollary initiatives of recruiting and retaining personnel and raising working capital. As of September 30, 2016, we had an accumulated deficit of approximately \$136.8 million. Our net loss for the six months ended September 30, 2016 was approximately \$5.1 million. Our net loss for the six months ended September 30, 2015 was approximately \$36.6 million, which amount included a non-recurring, non-cash loss of approximately \$26.7 million attributable to extinguishment and conversion of approximately \$17.2 million of our prior indebtedness into equity securities between May and August 2015. We expect losses to continue for the foreseeable future, primarily related to our further clinical development of AV-101 for the adjunctive treatment of MDD, as well as a range of other CNS indications.

Summary of Six Months Ended September 30, 2016

During the six months ended September 30, 2016, we continued to (i) advance clinical development of AV-101 as a new generation antidepressant, (ii) expand the regulatory foundation to support Phase 2 clinical development of AV-101 in the U.S. both as a new adjunctive treatment for patients with inadequate response to standard, FDA-approved antidepressants and as a new therapeutic alternative for several other CNS indications, and, (iii) on a limited basis, advance both (a) the predictive toxicology capabilities of *CardioSafe* 3D for drug rescue applications, including our ongoing participation in the FDA's Comprehensive in-vitro Proarrhythmia Assay (*CiPA*) initiative designed to change the landscape of preclinical drug development by providing a more complete and accurate assessment of potential drug effects on cardiac risk, and (b) regenerative medicine opportunities related to our stem cell technology platform.

Pursuant to our February 2015 Cooperative Research and Development Agreement (*CRADA*) with the NIH, the NIH continues to fund, and Dr. Carlos Zarate Jr. of the NIMH continues to conduct, a Phase 2a clinical study of AV-101 in treatment-resistant MDD. In addition, we continue preparations for our Phase 2b clinical study of AV-101 for the adjunctive treatment of MDD in patients with an inadequate response to standard, FDA-approved antidepressants (the *Phase 2b Study*). We currently anticipate the launch of the Phase 2b Study, with Dr. Maurizio Fava of Harvard Medical School serving as Principal Investigator, in the first half of 2017.

In May 2016, we consummated an underwritten public offering of our securities, pursuant to which we issued to institutional investors an aggregate of 2,570,040 registered shares of our common stock and five-year warrants exercisable at \$5.30 per share to purchase an aggregate of 2,705,883 shares of our common stock and received net proceeds, after deducting underwriters' commissions and other expenses, of approximately \$9.5 million (*May 2016 Public Offering*). In connection with the May 2016 Public Offering, we also uplisted our common stock to the NASDAQ Capital Markets, where it has traded under the symbol "VTGN" since May 11, 2016. Please see the section titled "*Liquidity and Capital Resources*" below, for a discussion of our capital needs following the May 2016 Public Offering.

In addition to bolstering our Clinical and Regulatory Advisory Board with the appointment of Dr. Maurizio Fava as Chairman and the addition of members Dr. Sanjay Matthew and Dr. Thomas Laughren, all pre-eminent opinion leaders in the field of depression, and the addition of veteran healthcare executive Jerry Gin, Ph.D., MBA to our Board of Directors, we recently enhanced our management team with the addition of Mark A. Smith, MD, Ph.D., as our Chief Medical Officer in June 2016. Dr. Smith has over 20 years of pharmaceutical industry and CNS drug development experience. He has been a successful project leader in both drug discovery and development on projects resulting in approximately 20 investigational new drugs (INDs). Dr. Smith has directed clinical trials examining depression, bipolar disorder, anxiety, schizophrenia, Alzheimer's disease, ADHD and agitation in Phase 1 through Phase 2b. In addition, Dr. Smith has vast knowledge and expertise in translational neuroscience, clinical trial design and regulatory interactions. Further, in September 2016, we appointed Mark A. McPartland as our Vice President of Corporate Development and Investor Relations. Mr. McPartland has over 20 years of experience in corporate development, capital markets, corporate communications and management consulting for companies at varying stage of their corporate evolution, including early- and mid-stage biopharmaceutical companies. Mr. McPartland will concentrate his initial efforts in expanding awareness of VistaGen across a range of investors, researchers, patients, clinicians and potential partners.

As a matter of course, we attempt to minimize to the greatest extent possible cash commitments and expenditures for both internal and external research and development and general and administrative services. To further advance the clinical development of AV-101 and our stem cell technology platform, as well as support our operating activities, we will continue to carefully manage our routine operating costs, including our internal employee related expenses, as well as external costs relating to regulatory consulting, contract research and development, investor relations and corporate development, legal, accounting, public company compliance and other professional services and working capital costs.

Results of Operations

Comparison of Three Months Ended September 30, 2016 and 2015

The following table summarizes the results of our operations for the three months ended September 30, 2016 and 2015 (amounts in thousands).

	Three Months Ended September 30,	
	2016	2015
Operating expenses:		
Research and development	\$ 1,606	\$ 1,656
General and administrative	1,494	3,731
Total operating expenses	<u>3,100</u>	<u>5,387</u>
Loss from operations	(3,100)	(5,387)
Interest expense, net	(1)	(12)
Loss on extinguishment of debt	-	(1,649)
Loss before income taxes	(3,101)	(7,048)
Income taxes	-	-
Net loss	\$ (3,101)	\$ (7,048)
Accrued dividend on Series B Preferred Stock	(241)	(615)
Deemed dividend on Series B Preferred Stock	-	(887)
Net loss attributable to common stockholders	<u>\$ (3,342)</u>	<u>\$ (8,550)</u>

Revenue

We reported no revenue for the quarters ended September 30, 2016 or 2015 and we presently have no revenue generating arrangements. However, as indicated previously, we have entered into a CRADA with the NIH providing for NIH funding of a Phase 2a clinical study of AV-101 in treatment resistant Major Depressive Disorder. This Phase 2a study, which began in November 2015, is being fully funded by the NIH and conducted at the NIMH by Dr. Carlos Zarate, Jr.

Research and Development Expense

Research and development expense totaled \$1,606,100 for the quarter ended September 30, 2016, a 3% decrease compared with the \$1,656,100 reported for the quarter ended September 30, 2015, which included significant noncash stock-based compensation expense. Although the decrease between periods is modest, current period costs reflect the increasing impact of our concentration on continued development of AV-101 and preparations for launch of the Phase 2b Study, which is currently anticipated in the first half of 2017. The following table indicates the primary components of research and development expense for each of the periods (amounts in thousands):

	Three Months Ended September 30,	
	2016	2015
Salaries and benefits	\$ 461	\$ 212
Stock-based compensation	82	887
Consulting and other professional services	31	24
Technology licenses and royalties	94	434
Project-related research and supplies:		
AV-101	817	13
Stem cell and all other	51	21
	<u>868</u>	<u>34</u>
Rent	62	55
Depreciation	8	10
	<u>8</u>	<u>10</u>
Total Research and Development Expense	\$ 1,606	\$ 1,656

The increase in salaries and benefits reflects the impact of a bonus payment made to our President and Chief Scientific Officer (CSO), the hiring of Dr. Mark Smith as our Chief Medical Officer (CMO), and salary increases granted to our CSO and the four non-officer members of our scientific staff.

The decrease in stock based compensation expense is primarily attributable to the \$852,200 fair value, determined using the Black-Scholes Option Pricing Model and the assumptions indicated in Note 2, *Summary of Significant Accounting Policies*, to the accompanying Condensed Consolidated Financial Statements in Part I of this Report, of the September 2015 grant of immediately vested and expensed warrants to purchase 150,000 shares of our common stock granted to our CSO. Stock compensation expense in 2016 reflects the ratable amortization of option grants made to our CSO and CMO, scientific staff and consultants, most recently in June 2016 (CSO and CMO only) and September 2015 (primarily in 2016 expense). Our stock options are generally amortized over a two-year to four-year vesting period. A substantial number of the option grants made in or prior to our fiscal year ended March 31, 2014 became fully-vested and were fully-expensed prior to the quarter ended September 30, 2016.

Consulting services reflects fees paid or accrued for scientific, preclinical and clinical development and regulatory advisory services rendered to us by third-parties, primarily by members of our scientific and clinical and regulatory advisory boards.

Technology license expense reflects both recurring annual fees as well as legal counsel and other costs related to patent prosecution and protection that we are required to fund under the terms of certain of our stem cell technology license agreements or have elected to pursue for commercial purposes. We recognize these costs as they are invoiced to us by the licensors and they do not occur ratably throughout the year or between years. In both periods, but to a greater extent in the quarter ended September 30, 2015, this expense includes legal counsel and other costs we have incurred to advance in the U.S. and numerous foreign countries numerous pending patent applications with respect to AV-101 and our stem cell technology platform. Expense for the quarter ended September 30, 2015, also included approximately \$153,000 of fees and expenses related to stem cell technology related licenses acquired from University Health Network (UHN) in connection with our Sponsored Research Collaboration Agreement with UHN. Further, in July 2015, we granted an aggregate of 10,000 shares of our Series B Preferred having an aggregate fair value on the date of grant of \$120,000 to two strategic intellectual property legal service providers.

AV-101 project expenses for the quarter ended September 30, 2016 includes continuing costs incurred to develop more efficient and cost-effective production methods for AV-101 and for certain pre-production and preclinical trial analyses and procedures to facilitate Phase 2 clinical development of AV-101, including the Phase 2b Study. AV-101 expense in both periods reflects the costs associated with monitoring for and responding to potential feedback related to the AV-101 Phase 1 clinical trials and addressing other matters required under the terms of our prior NIH grant awards, primarily through our Cato Research Ltd., our CRO for our Phase 1 safety studies. Stem cell and other project related expenses in both periods were nominal.

General and Administrative Expense

General and administrative expense decreased to \$1,493,600 from \$3,730,500, for the quarters ended September 30, 2016 and 2015, respectively, primarily as a result of the decrease in noncash stock compensation expense attributable to option and warrant grants to employees and noncash expense related to grants of equity securities in payment of certain professional services. The following table indicates the primary components of general and administrative expenses for each of the periods (amounts in thousands):

	Three Months Ended September 30,	
	2016	2015
Salaries and benefits	\$ 485	\$ 172
Stock-based compensation	117	2,854
Consulting Services	36	28
Legal, accounting and other professional fees	207	511
Investor relations	471	22
Insurance	38	34
Travel expenses	23	38
Rent and utilities	45	39
Warrant modification expense	17	-
All other expenses	54	33
Total General and Administrative Expense	\$ 1,493	\$ 3,731

The increase in salaries and benefits reflects the impact of bonus payments made to our Chief Executive Officer (*CEO*) and Chief Financial Officer (*CFO*); the hiring of Mark McPartland as our Vice President of Corporate Development and Investor Relations; and salary increases granted to our CEO, CFO and a non-officer member of our administrative staff and the change in that employee's status from part-time to full-time.

The decrease in stock based compensation expense is primarily attributable to the \$2,841,000 fair value, determined using the Black-Scholes Option Pricing Model and the assumptions indicated in Note 2, *Summary of Significant Accounting Policies*, to the accompanying Condensed Consolidated Financial Statements in Part I of this Report, of the September 2015 grant of immediately vested and expensed warrants to purchase 500,000 shares of our common stock granted to our CEO, CFO, independent members of our Board of Directors and certain consultants. Stock compensation expense in 2016 reflects the ratable amortization of option grants made to our CEO, CFO, independent members of our Board of Directors and administrative staff and consultants, most recently in June 2016 (CEO, CFO and independent Board members only) and September 2015 (primarily in 2016 expense), as well as to Mr. McPartland upon his commencement of employment in September 2016. Our stock options are generally amortized over a two-year to four-year vesting period. A substantial number of the option grants made in or prior to our fiscal year ended March 31, 2014 became fully-vested and were fully-expensed prior to the quarter ended September 30, 2016.

Consulting services primarily includes fees recognized for the services of independent members of our Board of Directors. We added an additional independent director to our Board in March 2016.

Legal, accounting and other professional fees in the quarter ended September 30, 2015 included \$337,500 of noncash expense recognized during the quarter pursuant to the June 30, 2015 grant of an aggregate of 90,000 shares of our Series B Preferred having an aggregate fair value of \$1,350,000 as compensation for financial advisory and corporate development service contracts with two independent contractors for services to be performed through June 30, 2016. In the quarter ended September 30, 2016, we also granted an aggregate of 25,000 unregistered shares of our common stock having a fair value of \$108,500 to a legal services provider as compensation for services. In both years, professional services fees also include the expense related to the annual audit of the prior year financial statements and quarterly reviews of current year financial statements.

Investor relations expense includes the fees of our external service providers for a broad spectrum of investor relations and market awareness and support functions and, in the quarter ended September 30, 2016, initiatives that include numerous meetings and other communication activities focused on expanding market awareness of the Company, including among investment professionals and investment advisors, and individual and institutional investors. In the quarter ended September 30, 2016, we granted an aggregate of 25,000 unregistered shares of our common stock having a fair value at the time of issuance of \$108,500 to an investor relations service provider as compensation for services, and, as noted in Note 8, *Capital Stock*, to the accompanying Condensed Consolidated Financial Statements in Part I of this Report, 120,000 unregistered shares of our common stock having a fair value at the time of issuance of \$520,800 to a consulting services provider for corporate development and other strategic advisory services to be rendered from October 2016 to December 2016. The value of the latter common stock grant was recorded as a prepaid expense at the date of the grant and will be expensed during the quarter ended December 31, 2016.

In both periods, travel expense reflects costs associated with presentations to and meetings with existing and potential individual and institutional investors, investment professionals and investment advisors, media and securities analysts, as well as various investor relations, market awareness and corporate development initiatives.

In August 2016, we entered into warrant exchange agreements with certain warrant holders pursuant to which the warrant holders exchanged outstanding warrants to purchase an aggregate of 20,000 shares of our common stock for an aggregate of 15,000 shares of our unregistered common stock. As with similar transactions during the quarters ended March 31, 2016 and June 30, 2016, we accounted for these transactions as warrant modifications, resulting in our recognition of \$17,100 in noncash expense in the quarter ended September 30, 2016.

Interest and Other Expenses, Net

Interest expense, net totaled \$1,400 for the quarter ended September 30, 2016 compared to \$12,200 reported for the quarter ended September 30, 2015, with both quarters reflecting the impact of the extinguishment of a substantial majority of our promissory notes, as well as other indebtedness, between May 2015 and August 2015 by conversion into our Series B Preferred or cash repayment and the related elimination of note interest and discount amortization. The following table summarizes the primary components of interest expense for each of the periods (amounts in thousands):

	Three Months Ended September 30,	
	2016	2015
Interest expense on promissory notes	\$ -	\$ 13
Amortization of discount on promissory notes	-	14
Other interest expense, including on capital leases and premium financing	1	1
	<u>1</u>	<u>28</u>
Effect of foreign currency fluctuations on notes payable	-	(16)
Interest income	-	-
Interest expense, net	<u>\$ 1</u>	<u>\$ 12</u>

Interest expense on promissory notes in the quarter ended September 30, 2015 represents the quarterly interest accrued on our outstanding Note A to Morrison & Foerster prior to its conversion into our Series B Preferred in August 2015, our outstanding note to University of California at Davis prior to our repayment of such note in January 2016 and our outstanding note to Progressive Medical Research prior to our repayment of such in June 2016. Discount amortization for the same period was attributable to Note A to Morrison & Foerster. Other interest expense in both periods relates to interest paid on insurance premium financing and one capital lease of office equipment.

During the quarter ended September 30, 2015, we eliminated the outstanding balances of an additional approximately \$1.8 million of promissory notes and other debt (after having eliminated the outstanding balances of approximately \$15.4 million of promissory notes, including our Senior Secured Notes, our 2014 Unit Notes and other debt and certain adjustments thereto, in the quarter ended June 30, 2015) by converting such balances into shares of our Series B Preferred. We treated the conversion of the indebtedness into Series B Preferred as extinguishments of debt for accounting purposes. Because the fair value of the Series B Preferred we negotiated in settlement of the promissory notes and other indebtedness in the both the quarter ended September 30, 2015 and the quarter ended June 30, 2015 exceeded the carrying value of the debts, we incurred non-recurring noncash losses on each of the extinguishments. During the quarter ended September 30, 2015, we recorded an aggregate net noncash loss of \$1,649,300 attributable to the extinguishment of debt converted into Series B Preferred.

We allocated proceeds from our self-placed private placement sales of Series B Preferred Units during the quarter ended September 30, 2015 to the Series B Preferred and the Series B Warrants based on their relative fair values on the dates of the sales. The difference, for accounting purposes, between the relative fair value per share of the Series B Preferred, approximately \$4.05 per share, and its Conversion Price (or stated value) of \$7.00 per share represented a deemed dividend to the purchasers of the Series B Preferred Units. Accordingly, we recognized a deemed dividend in the aggregate amount of \$886,900 in arriving at net loss attributable to common stockholders for the quarter ended September 30, 2015 in the accompanying Condensed Consolidated Statement of Operations and Comprehensive Loss included in Part I of this Report. Our private placement offering of Series B Preferred Units was completed in May 2016.

We have recognized \$241,000 and \$614,700 for the quarters ended September 30, 2016 and 2015, respectively, representing the 10% cumulative dividend payable on our Series B Preferred as an additional deduction in arriving at net loss attributable to common stockholders in the accompanying Condensed Consolidated Statement of Operations and Comprehensive Loss included in Part I of this Report. The reduction in the quarterly dividend accrual results from the automatic conversion of an aggregate of 2,403,051 shares of Series B Preferred upon our completion of the May 2016 Public Offering, as disclosed in Note 8, *Capital Stock*, to the accompanying Condensed Consolidated Financial Statements in Part I of this Report.

Comparison of Six Months Ended September 30, 2016 and 2015

The following table summarizes the results of our operations for the six months ended September 30, 2016 and 2015 (amounts in thousands).

	Six Months Ended September 30,	
	2016	2015
Operating expenses:		
Research and development	\$ 2,432	\$ 2,029
General and administrative	2,631	5,179
Total operating expenses	<u>5,063</u>	<u>7,208</u>
Loss from operations	(5,063)	(7,208)
Interest expense (net)	(3)	(767)
Change in warrant liabilities	-	(1,895)
Loss on extinguishment of debt	<u>-</u>	<u>(26,700)</u>
Loss before income taxes	(5,066)	(36,570)
Income taxes	<u>(2)</u>	<u>(2)</u>
Net loss	\$ (5,068)	\$ (36,572)
Accrued dividend on Series B Preferred Stock	(781)	(828)
Deemed dividend on Series B Preferred Stock	(111)	(1,143)
Net loss attributable to common stockholders	<u>\$ (5,960)</u>	<u>\$ (38,543)</u>

Revenue

We reported no revenue for the six month periods ended September 30, 2016 or 2015 and we presently have no revenue generating arrangements. However, as indicated previously, we have entered into a CRADA with the NIH providing for the NIH to fund and conduct a Phase 2a clinical study of AV-101 in treatment resistant Major Depressive Disorder. This Phase 2a study, which began in November 2015, is being funded by the NIH and conducted at the NIMH by Dr. Carlos Zarate, Jr.

Research and Development Expense

Research and development expense totaled \$2,431,800 for the six months ended September 30, 2016, approximately 20% greater than the \$2,028,700 incurred for the six months ended September 30, 2015, reflecting our increasing focus on the continued development of AV-101 and preparations to launch the Phase 2b Study, which we currently anticipate to begin in the first half of 2017, and offset by a reduction in noncash stock compensation expense compared to the prior period. The following table indicates the primary components of research and development expense for each of the periods (amounts in thousands):

	Six Months Ended September 30,	
	2016	2015
Salaries and benefits	\$ 711	\$ 414
Stock-based compensation	126	905
Consulting and other professional services	58	46
Technology licenses and royalties	254	487
Project-related research and supplies:		
AV-101	1,069	24
Stem cell and all other	79	23
	<u>1,148</u>	<u>47</u>
Rent	118	108
Depreciation	17	21
All other	-	1
	<u>-</u>	<u>1</u>
Total Research and Development Expense	\$ 2,432	\$ 2,029

The increase in salaries and benefits reflects the impact of bonus payments made to our President and Chief Scientific Officer (CSO) and to the four non-officer members of our scientific staff, the hiring of Dr. Mark Smith as our Chief Medical Officer (CMO), and salary increases granted to our CSO and members of our scientific staff.

The decrease in stock based compensation expense is primarily attributable to the \$852,200 fair value, determined using the Black-Scholes Option Pricing Model and the assumptions indicated in Note 2, *Summary of Significant Accounting Policies*, to the accompanying Condensed Consolidated Financial Statements in Part I of this Report, of the September 2015 grant of immediately vested and expensed warrants to purchase 150,000 shares of our common stock granted to our CSO. Stock compensation expense in 2016 reflects the ratable amortization of option grants made to our CSO and CMO, scientific staff and consultants, most recently in June 2016 (CSO and CMO only) and September 2015 (primarily in 2016 expense). Our stock options are generally amortized over a two-year to four-year vesting period. A substantial number of the option grants made in or prior to our fiscal year ended March 31, 2014 became fully-vested and were fully-expensed prior to the quarter ended September 30, 2016.

Consulting services reflects fees paid or accrued for scientific, preclinical and clinical development and regulatory advisory services rendered to us by third-parties, primarily by members of our scientific and clinical and regulatory advisory boards.

Technology license expense reflects both recurring annual fees as well as legal counsel and other costs related to patent prosecution and protection that we are required to fund under the terms of certain of our stem cell technology license agreements or have elected to pursue for commercial purposes. We recognize these costs as they are invoiced to us by the licensors and they do not occur ratably throughout the year or between years. Additionally, in both periods, this expense includes legal counsel and other costs we have incurred to advance in the U.S. and numerous foreign countries several pending patent applications with respect to AV-101 and our stem cell technology platform. Expense for the six months ended September 30, 2015, also included approximately \$153,000 of fees and expenses related to stem cell technology related licenses acquired in connection with our Sponsored Research Collaboration Agreement with UHN. Further, in July 2015, we granted an aggregate of 10,000 shares of our Series

B Preferred having an aggregate fair value on the date of grant of \$120,000 to two intellectual property legal service providers.

AV-101 project expenses for the six months ended September 30, 2016 includes continuing costs incurred to develop more efficient and cost-effective production methods for AV-101 and for certain pre-production and preclinical trial analyses and procedures to facilitate Phase 2 clinical development of AV-101, including the Phase 2b Study. We expect these expenses to increase materially over the next several quarters as we conduct the Phase 2b Study. Additionally, AV-101 expense in both periods reflects the costs associated with monitoring for and responding to potential feedback related to our AV-101 Phase 1 clinical safety program and addressing other matters required under the terms of our prior NIH grant awards, primarily through our CRO for our Phase 1 safety studies, Cato Research Ltd. Stem cell and other project related expenses in both periods were nominal.

General and Administrative Expense

General and administrative expense decreased to \$2,631,200 from \$5,179,000, for the six month periods ended September 30, 2016 and 2015, respectively, primarily as a result of the decrease in noncash stock compensation expense attributable to option and warrant grants to employees, officer and independent Board members and noncash expense related to grants of equity securities in payment of certain professional services during 2015. The following table indicates the primary components of general and administrative expenses for each of the periods (amounts in thousands):

	Six Months Ended September 30,	
	2016	2015
Salaries and benefits	\$ 675	\$ 348
Stock-based compensation	181	2,865
Consulting services	69	56
Legal, accounting and other professional fees	749	1,470
Investor relations	579	56
Insurance	78	72
Travel and entertainment	72	55
Rent and utilities	85	76
Warrant modification expense	57	122
All other expenses	86	59
Total General and Administrative Expense	\$ 2,631	\$ 5,179

The increase in salaries and benefits reflects the impact of bonus payments made to our Chief Executive Officer (*CEO*) and Chief Financial Officer (*CFO*), the hiring of Mark McPartland as our Vice President of Corporate Development and Investor Relations, and salary increases granted to our CEO, CFO and a non-officer member of our administrative staff and the change in that employee's status from part-time to full-time.

The decrease in stock based compensation expense is primarily attributable to the \$2,841,000 fair value, determined using the Black-Scholes Option Pricing Model and the assumptions indicated in Note 2, *Summary of Significant Accounting Policies*, to the accompanying Condensed Consolidated Financial Statements in Part I of this Report, of the September 2015 grant of immediately vested and expensed warrants to purchase 500,000 shares of our common stock granted to our CEO, CFO, independent members of our Board of Directors and certain consultants. Stock compensation expense in 2016 reflects the ratable amortization of option grants made to our CEO, CFO, independent members of our Board of Directors and administrative staff and consultants, most recently in June 2016 (CEO, CFO and independent Board members only) and September 2015 (primarily in 2016 expense), as well as to Mr. McPartland upon his commencement of employment in September 2016. Our stock options are generally amortized over a two-year to four-year vesting period. A substantial number of the option grants made in or prior to our fiscal year ended March 31, 2014 became fully-vested and were fully-expensed prior to the quarter ended September 30, 2016.

Consulting services primarily includes fees recognized for the services of independent members of our Board of Directors. We added an additional independent director to our Board in March 2016.

Legal, accounting and other professional fees in the six month periods ended September 30, 2016 and 2015, each included \$337,500 of noncash expense recognized during the respective period pursuant to the June 30, 2015 grant of an aggregate of 90,000 shares of our Series B Preferred having an aggregate fair value of \$1,350,000 as compensation for financial advisory and corporate development service contracts with two independent contractors for services performed between July 1, 2015 and June 30, 2016. During the six-month period ended September 30, 2016, we also granted an aggregate of 25,000 unregistered shares of our common stock having a fair value at the date of issuance of \$108,500 to a legal services provider as compensation for services. During the six-month period ended September 30, 2015, we granted an aggregate of 50,000 shares of our common stock having a fair value of \$500,000 pursuant to two corporate development contracts and granted 25,000 shares of our Series B Preferred having a fair value at the time of issuance of \$250,000 to legal counsel as compensation for services in connection with our debt restructuring and other corporate finance matters. In both years, professional services fees also include the expense related to the annual audit of the prior year financial statements and quarterly reviews of current year financials statements.

Investor relations expense includes the fees of our external service providers for a broad spectrum of investor relations and market awareness and support functions and, in the six-month period ended September 30, 2016, initiatives that include meetings and other communication activities focused on expanding market awareness of the Company, including among investment professionals and investment advisors, individual and institutional investors, media and securities analysts. In the six months ended September 30, 2016, we also granted an aggregate of 25,000 unregistered shares of our common stock having a fair value at the time of issuance of \$108,500 to an investor relations service provider as compensation for services, and, as disclosed in Note 8, *Capital Stock*, to the accompanying Condensed Consolidated Financial Statements in Part I of this Report, in September 2016, 120,000 unregistered shares of our common stock having a fair value at the time of issuance of \$520,800 to a consulting services provider for corporate development and strategic advisory services to be rendered from October 2016 to December 2016. The value of the latter common stock grant was recorded as a prepaid expense at the date of the grant and will be expensed during the quarter ended December 31, 2016.

In both periods, travel expense reflects costs associated with presentations to and meetings with existing and potential investors and investment professionals and advisors, media and securities analysts, as well as various investor relations, market awareness and corporate development initiatives.

Between April 2016 and August 2016, we entered into warrant exchange agreements with certain warrant holders pursuant to which the warrant holders exchanged outstanding warrants to purchase an aggregate of 61,649 shares of our common stock for an aggregate of 46,238 shares of our unregistered common stock. As with similar transactions during our fiscal year ended March 31, 2016, we accounted for these transactions as warrant modifications, resulting in our recognition of an aggregate of \$57,400 in noncash expense during the six-month period ended September 30, 2016. Warrant modification expense in the six-month period ended September 30, 2015 reflects the impact of June 2015 strategic reductions in the exercise price of certain outstanding warrants, generally from \$30.00 per share to \$10.00 per share.

Interest and Other Expenses, Net

Interest expense, net, totaled \$2,800 for the six months ended September 30, 2016, a significant decrease compared to the \$767,300 reported for the six months ended September 30, 2015, resulting from the extinguishment of substantially all of our promissory notes, as well as other indebtedness, between May 2015 and August 2015 by conversion into our Series B Preferred or cash repayment and the related elimination of note interest and discount amortization. The following table summarizes the primary components of interest expense for each of the periods (amounts in thousands):

	Six Months Ended September 30,	
	2016	2015
Interest expense on promissory notes	\$ 1	\$ 206
Amortization of discount on promissory notes	-	565
Other interest expense, including on capital leases and premium financing	2	2
	<u>3</u>	<u>773</u>
Effect of foreign currency fluctuations on notes payable	-	(6)
Interest income	-	-
Interest expense, net	<u>\$ 3</u>	<u>\$ 767</u>

Interest expense on promissory notes in the six months ended September 30, 2016 represents only the interest accrued on our promissory note to Progressive Medical Research prior to its repayment in June 2016. The substantial overall decrease in interest expense on promissory notes and the related amortization of discounts on such notes between the periods reflects the cessation of interest accrual and discount amortization upon the extinguishment and conversion of all outstanding Senior Secured Convertible Notes, certain 10% convertible notes (*2014 Unit Notes*) and other outstanding promissory notes into shares of our Series B Preferred between May 2015 and August 2015.

Under the terms of our October 2012 Note Exchange and Purchase Agreement with Platinum Long Term Growth VII, LLC (*PLTG*), we issued certain Senior Secured Convertible Promissory Notes and a related Exchange Warrant and Investment Warrants between October 2012 and July 2013. Upon PLTG's exchange of the shares of our Series A Preferred Stock held by PLTG into shares of our common stock, we were also required to issue a Series A Exchange Warrant to PLTG. We determined that the various warrants included certain exercise price and other adjustment features requiring us to treat the warrants as liabilities. Accordingly, we recorded a noncash warrant liability at its estimated fair value as of the date of warrant issuance or contract execution. As described in Note 4, *Fair Value Measurements*, to the Condensed Consolidated Financial Statements included in Part 1, Item 1 of this Report, on May 12, 2015, we entered into an agreement with PLTG pursuant to which we amended the various warrants to fix the exercise price thereof and eliminate the anti-dilution reset features that had previously required the warrants to be treated as liabilities and carried at fair value. Accordingly, during the quarter ended June 30, 2015, we adjusted these warrants to their fair value, reflecting an increase of \$1,894,700 since March 31, 2015, resulting primarily from the increase in the market price of our common stock in relation to the exercise price of the warrants, and then subsequently eliminated the entire warrant liability with respect to these warrants. In January 2016, the PLTG warrants were exchanged for shares of our Series C Preferred stock.

Between May 2015 and August 2015 we extinguished the outstanding balances of approximately \$17,200,000 of promissory notes, including our Senior Secured Notes, our 2014 Unit Notes and other debt and certain adjustments thereto that were either already due and payable or would have otherwise matured prior to March 31, 2016 by converting such balances into shares of our Series B Preferred. We treated the conversion of the indebtedness into Series B Preferred as extinguishments of debt for accounting purposes. Since the fair value of the Series B Preferred we negotiated in settlement of the promissory notes and other indebtedness exceeded the carrying value of the debts, we incurred non-recurring noncash losses on each of the extinguishments. Additionally, under the terms of our May 2015 agreement with PLTG in which they agreed to, among other things, convert the Senior Secured Notes and certain other of our convertible promissory notes into Series B Preferred, we issued to PLTG 400,000 shares of Series B Preferred having an aggregate fair value of \$4.0 million and Series B Warrants to purchase 1.2 million shares of our common stock having an aggregate fair value of \$8,270,900. We recognized this aggregate fair value as an additional noncash component of loss on extinguishment of debt. Many of the 2014 Unit Notes that were converted into Series B Preferred contained a beneficial conversion feature at the time they were originally issued. We accounted for the repurchase of the beneficial conversion feature at the time the 2014 Unit Notes were extinguished and converted, an aggregate of \$2,237,100, as a reduction to the loss on extinguishment of debt. We recorded an aggregate net non-recurring noncash loss of \$26.7 million attributable to the extinguishment of the indebtedness converted into shares of Series B Preferred.

We allocated the proceeds from self-placed private placement sales of Series B Preferred Units to the Series B Preferred and the Series B Warrants based on their relative fair values on the dates of the sales. The difference between the relative fair value per share of the Series B Preferred, approximately \$4.20 per share and \$4.06 per share for the six month periods ended September 30, 2016 and 2015, respectively, and its Conversion Price (or stated value) of \$7.00 per share represents a deemed dividend to the purchasers of the Series B Preferred Units. Accordingly, we recognized a deemed dividend in the aggregate amount of \$111,100 and \$1,143,100 in arriving at net loss attributable to common stockholders for the six months ended September 30, 2016 and 2015, respectively, in the accompanying Condensed Consolidated Statement of Operations and Comprehensive Loss included in Part I of this Report. Further, we recognized \$780,000 and \$828,000 for the six months ended September 30, 2016 and 2015, respectively, representing the 10% cumulative dividend payable on our Series B Preferred as an additional deduction in arriving at net loss attributable to common stockholders in the accompanying Condensed Consolidated Statement of Operations and Comprehensive Loss, included elsewhere in this Report. The reduction in the dividend accrual results from the automatic conversion of an aggregate of 2,403,051 shares of Series B Preferred upon our completion of the May 2016 Public Offering, as disclosed in Note 8, *Capital Stock*, to the accompanying Condensed Consolidated Financial Statements in Part I of this Report.

Liquidity and Capital Resources

Since our inception in May 1998 through September 30, 2016, we have financed our operations and technology acquisitions primarily through the issuance and sale of our equity and debt securities, including convertible promissory notes and short-term promissory notes, for cash proceeds of approximately \$44.3 million, as well as from an aggregate of approximately \$16.4 million of government research grant awards, strategic collaboration payments and other revenues, but not including the fair market value of the NIH-funded AV-101 Phase 2a clinical study in MDD. Additionally, we have issued equity securities with an approximate aggregate value at issuance of \$30.1 million in non-cash settlements of certain liabilities, including liabilities for professional services rendered to us or as compensation for such services.

Between April 1, 2016 and May 4, 2016, we sold to accredited investors Series B Preferred Units consisting of 39,714 unregistered shares of our Series B Preferred Stock, par value \$0.001 per share (*Series B Preferred*), and five year warrants to purchase 39,714 shares of our common stock, and we received cash proceeds of \$278,000. Further, on May 16, 2016 we consummated the May 2016 Public Offering, an underwritten public offering pursuant to which we issued an aggregate of 2,570,040 registered shares of our common stock at the public offering price of \$4.24 per share and five-year warrants to purchase up to 2,705,883 registered shares of common stock, with an exercise price of \$5.30 per share, at the public offering price of \$0.01 per warrant, including shares and warrants issued pursuant to the exercise of the underwriters' over-allotment option. We received net cash proceeds of approximately \$9.5 million from the May 2016 Public Offering after deducting fees and expenses. We believe that we currently have sufficient financial resources to fund our expected operations through the first half of 2017, including preparation for and launch of our AV-101 Phase 2b Study in MDD. Although our current financial resources are not yet sufficient to complete our AV-101 Phase 2b Study when launched, we anticipate raising sufficient additional capital in 2017 to satisfy our key corporate objectives, including completion of our AV-101 Phase 2b Study in 2018. Accordingly, our executive management continues to focus significant efforts on raising additional capital to complete the Phase 2b Study and for other operational requirements through sales of our securities, which may include both debt and equity securities, or from other sources. There can be no assurance, however, that future financing will be available in sufficient amounts, in a timely manner, or on terms acceptable to us, if at all.

We may also seek research and development collaborations that could generate revenue, as well as government grant awards. Further, strategic collaborations, such as our February 2015 CRADA which provides for the NIMH to fully fund our Phase 2a study of AV-101 in MDD, may provide non-dilutive resources to advance our strategic initiatives while reducing a portion of our future cash outlays and working capital requirements. Although we may seek additional collaborations that could generate revenue, as well as new government grant awards, no assurance can be provided that any such collaborations or awards will occur in the future.

Our future working capital requirements will depend on many factors, including, without limitation, the scope and nature of opportunities related to our success and the success of certain other companies in clinical trials, including our development of AV-101 as a treatment for MDD and other CNS conditions, and our stem cell technology platform, the availability of, and our ability to obtain, government grant awards and our ability to enter into collaborations on terms acceptable to us. To further advance the clinical development of AV-101 and our stem cell technology platform, as well as support our operating activities, we plan to continue to carefully manage our routine operating costs, including our employee headcount and related expenses, as well as costs relating to regulatory consulting, contract research and development, investor relations and corporate development, legal, accounting, public company compliance and other professional services and working capital costs.

Notwithstanding the foregoing, substantial additional financing may not be available to us on a timely basis, on acceptable terms, or at all. If we are unable to obtain substantial additional financing on a timely basis in the near term, our business, financial condition, and results of operations may be harmed, the price of our stock may decline, we may be required to reduce, defer, or discontinue certain of our research and development activities and we may not be able to continue as a going concern.

Cash and Cash Equivalents

The following table summarizes changes in cash and cash equivalents for the periods stated (in thousands):

	Six Months Ended	
	September 30,	
	2016	2015
Net cash used in operating activities	\$ (3,873)	\$ (2,330)
Net cash used in investing activities	(8)	-
Net cash provided by financing activities	9,709	2,954
Net increase in cash and cash equivalents	5,828	624
Cash and cash equivalents at beginning of period	429	70
Cash and cash equivalents at end of period	<u>\$ 6,257</u>	<u>\$ 694</u>

Off-Balance Sheet Arrangements

We have no off-balance sheet arrangements.

Item 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) as of the end of the period covered by this Report. Based on that evaluation, our Chief Executive Officer and our Chief Financial Officer concluded that our disclosure controls and procedures as of the end of the period covered by this Report were effective.

Internal Control over Financial Reporting

There was no change in our internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) that occurred during the fiscal quarter to which this Report relates that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II: OTHER INFORMATION

Item 1. Legal Proceedings

None.

Item 1A. Risk Factors

Investing in our securities involves a high degree of risk. You should consider carefully the risks and uncertainties described below, together with all of the other information in this Quarterly Report on Form 10-Q and in our Annual Report on Form 10-K filed with the Securities and Exchange Commission for the fiscal year ended March 31, 2016 before investing in our securities. The risks described below are not the only risks facing our Company. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial may also materially adversely affect our business, financial condition and/or operating results. If any of the following risks are realized, our business, financial condition and results of operations could be materially and adversely affected.

Risks Related to Product Development, Regulatory Approval and Commercialization

We depend heavily on the success of AV-101. We cannot be certain that we will be able to obtain regulatory approval for, or successfully commercialize AV-101, or any product candidate.

We currently have no drug products for sale and may never be able to develop and commercialize marketable drug products. Our business depends heavily on the successful development, regulatory approval and commercialization of AV-101 for depression, including for MDD, and various other diseases and disorders involving the CNS, as well as, but to a more limited extent, our ability to produce, develop and commercialize NCEs from our drug rescue programs. AV-101 will require substantial additional Phase 2 and Phase 3 clinical development, testing and regulatory approval before we are permitted to commence its commercialization and is unlikely to achieve regulatory approval until at least 2021, if at all. Each drug rescue NCE will require substantial non-clinical development, all phases of clinical development, and regulatory approval before we are permitted to commence its commercialization. The non-clinical studies and clinical trials of our product candidates are, and the manufacturing and marketing of our product candidates will be, subject to extensive and rigorous review and regulation by numerous government authorities in the United States and in other countries where we intend to test and, if approved, market any product candidate. Before obtaining regulatory approvals for the commercial sale of any product candidate, we must demonstrate through non-clinical studies and clinical trials that the product candidate is safe and effective for use in each target indication. Drug development is a long, expensive and uncertain process, and delay or failure can occur at any stage of any of our non-clinical studies or clinical trials. This process can take many years and may also include post-marketing studies and surveillance, which will require the expenditure of substantial resources beyond the proceeds we have raised to date. Of the large number of drugs in development in the United States, only a small percentage will successfully complete the FDA regulatory approval process and will be commercialized. Accordingly, even if we are able to obtain the requisite financing to continue to fund our non-clinical studies and clinical trials, we cannot assure you that AV-101, any drug rescue NCE, or any other product candidate will be successfully developed or commercialized.

We are not permitted to market our product candidates in the United States until we receive approval of a New Drug Application (NDA) from the FDA, or in any foreign countries until we receive the requisite approval from such countries. In late 2015, in collaboration with the NIMH under our CRADA, we began a Phase 2a clinical trial involving AV-101, to study its safety, tolerability and efficacy in patients with MDD. If our Phase 2a clinical trial of AV-101 is successful, we expect the FDA to require us to complete at least two pivotal Phase 3 clinical trials in order to submit an NDA for AV-101 as an adjunctive treatment for MDD patients with an inadequate response to standard, FDA-approved antidepressants. Also, we anticipate that the FDA will require that we conduct additional toxicity studies and additional non-clinical studies before submitting an NDA for AV-101. The results of all of these trials and studies are not known until after the studies are concluded.

Obtaining FDA approval of an NDA is a complex, lengthy, expensive and uncertain process, and the FDA may delay, limit or deny approval of AV-101 or any of our product candidates for many reasons, including, among others:

- if our NDA, if and when submitted, is reviewed by an advisory committee, the FDA may have difficulties scheduling an advisory committee meeting in a timely manner or the advisory committee may recommend against approval of our application or may recommend that the FDA require, as a condition of approval, additional non-clinical studies or clinical trials, limitations on approved labeling or distribution and use restrictions;
- the FDA may require development of a Risk Evaluation and Mitigation Strategy (REMS) as a condition of approval or post-approval;
- the FDA or the applicable foreign regulatory agency may determine that the manufacturing processes or facilities of third-party contract manufacturers with which we contract do not conform to applicable requirements, including current Good Manufacturing Practices (cGMPs); or
- the FDA or applicable foreign regulatory agency may change its approval policies or adopt new regulations.

Any of these factors, many of which are beyond our control, could jeopardize our ability to obtain regulatory approval for and successfully commercialize AV-101 or any other product candidate we may develop, including drug rescue NCEs. Any such setback in our pursuit of regulatory approval would have a material adverse effect on our business and prospects.

We intend to seek a Fast Track designation from the FDA for AV-101 for adjunctive treatment of MDD patients with an inadequate response to standard antidepressants. Even if the FDA approves Fast Track designation for AV-101 for this indication, it may not actually lead to a faster development or regulatory review or approval process.

The Fast Track designation is a program offered by the FDA pursuant to certain mandates under the FDA Modernization Act of 1997, designed to facilitate drug development and to expedite the review of new drugs that are intended to treat serious or life threatening conditions. Compounds selected must demonstrate the potential to address unmet medical needs. The Fast Track designation allows for close and frequent interaction with the FDA. A designated Fast Track drug may also be considered for priority review with a shortened review time, rolling submission, and accelerated approval if applicable. The designation does not, however, guarantee approval or expedited approval of any application for the product.

We intend to seek FDA Fast Track designation for AV-101 for adjunctive treatment of MDD patients with an inadequate response to standard antidepressants, and we may do so for other product candidates as well. The FDA has broad discretion whether or not to grant this designation, and even if we believe AV-101 and other product candidates are eligible for this designation, we cannot be sure that the review or approval will compare to conventional FDA procedures. Even if granted, the FDA may withdraw Fast Track designation if it believes that the designation is no longer supported by data from our clinical development programs.

The number of patients suffering from MDD has not been established with precision. If the actual number of patients with MDD is smaller than we anticipate, we or our collaborators may encounter difficulties in enrolling patients in AV-101 clinical trials, including our NIH-funded Phase 2a clinical study of AV-101 in treatment-resistant MDD, thereby delaying or preventing clinical development. Further, if AV-101 is approved for adjunctive treatment of MDD patients with an inadequate response to standard antidepressants, and the market for this indication is smaller than we anticipate, our ability to achieve profitability could be limited.

Results of earlier clinical trials may not be predictive of the results of later-stage clinical trials.

The results of preclinical studies and early clinical trials of AV-101 and other product candidates may not be predictive of the results of later-stage clinical trials. AV-101 or other product candidates in later stages of clinical trials may fail to show the desired safety and efficacy results despite having progressed through preclinical studies and initial clinical trials. Many companies in the biopharmaceutical industry have suffered significant setbacks in advanced clinical trials due to adverse safety profiles or lack of efficacy, notwithstanding promising results in earlier studies. Similarly, our future clinical trial results may not be successful for these or other reasons.

This drug candidate development risk is heightened by any changes in planned clinical trials compared to completed clinical trials. As product candidates are developed through preclinical to early and late stage clinical trials towards approval and commercialization, it is customary that various aspects of the development program, such as manufacturing and methods of administration, are altered along the way in an effort to optimize processes and results. While these types of changes are common and are intended to optimize the product candidates for later stage clinical trials, approval and commercialization, such changes do carry the risk that they will not achieve these intended objectives.

For example, the results of planned clinical trials may be adversely affected if we or our collaborator seek to optimize and scale-up production of a product candidate. In such case, we will need to demonstrate comparability between the newly manufactured drug substance and/or drug product relative to the previously manufactured drug substance and/or drug product. Demonstrating comparability may cause us to incur additional costs or delay initiation or completion of our clinical trials, including the need to initiate a dose escalation study and, if unsuccessful, could require us to complete additional preclinical or clinical studies of our product candidates.

If serious adverse events or other undesirable side effects are identified during the use of AV-101 in clinical trials, it may adversely affect our development of AV-101 for MDD and other CNS indications.

AV-101 is currently being tested in an NIMH-investigator sponsored Phase 2a clinical trial for the treatment of MDD and may be subjected to testing in the future for other CNS indications in additional investigator sponsored clinical trials. If serious adverse events or other undesirable side effects, or unexpected characteristics of AV-101 are observed in investigator sponsored clinical trials of AV-101 or our clinical trials, it may adversely affect or delay our clinical development of AV-101, and the occurrence of these events would have a material adverse effect on our business.

Positive results from early preclinical studies and clinical trials of AV-101 or other product candidates are not necessarily predictive of the results of later preclinical studies and clinical trials of such product candidates. If we cannot replicate the positive results from our earlier preclinical studies and clinical trials of AV-101 or other product candidates in our later preclinical studies and clinical trials, we may be unable to successfully develop, obtain regulatory approval for and commercialize our product candidates.

Positive results from preclinical studies of our product candidates, and any positive results we may obtain from early clinical trials of our product candidates, may not necessarily be predictive of the results from required later preclinical studies and clinical trials. Similarly, even if we are able to complete our planned preclinical studies or clinical trials of our product candidates according to our current development timeline, the positive results from our preclinical studies and clinical trials of our product candidates may not be replicated in subsequent preclinical studies or clinical trial results. Many companies in the pharmaceutical and biotechnology industries have suffered significant setbacks in late-stage clinical trials after achieving positive results in early-stage development, and we cannot be certain that we will not face similar setbacks. These setbacks have been caused by, among other things, preclinical findings made while clinical trials were underway or safety or efficacy observations made in preclinical studies and clinical trials, including previously unreported adverse events. Moreover, preclinical and clinical data are often susceptible to varying interpretations and analyses, and many companies that believed their product candidates performed satisfactorily in preclinical studies and clinical trials nonetheless failed to obtain FDA approval. We have not yet completed a Phase 2a clinical trial for AV-101, and if we fail to produce positive results in our NIH-sponsored Phase 2a clinical trial of AV-101 in MDD, the development timeline and regulatory approval and commercialization prospects for AV-101 and, correspondingly, our business and financial prospects, could be materially adversely affected.

Failures or delays in the commencement or completion of our planned clinical trials and non-clinical studies of our product candidates could result in increased costs to us and could delay, prevent or limit our ability to generate revenue and continue our business.

Under our CRADA, we and the NIH have commenced an NIH-funded Phase 2a clinical trial of AV-101 as a treatment for MDD. We will need to complete at least two additional large clinical trials prior to the submission of an NDA for AV-101 as a treatment for MDD. Successful completion of our clinical trials is a prerequisite to submitting an NDA to the FDA and, consequently, the ultimate approval and commercial marketing of AV-101 for

MDD and any other product candidates we may develop. We do not know whether the NIH-funded Phase 2a study of AV-101 or any of our future-planned clinical trials will be completed on schedule, if at all, as the commencement and completion of clinical trials can be delayed or prevented for a number of reasons, including, among others:

- the FDA may deny permission to proceed with our planned clinical trials or any other clinical trials we may initiate, or may place a clinical trial on hold;
- delays in filing or receiving approvals of additional INDs that may be required;
- negative results from our ongoing non-clinical studies;
- delays in reaching or failing to reach agreement on acceptable terms with prospective CROs and clinical trial sites, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and trial sites;
- inadequate quantity or quality of a product candidate or other materials necessary to conduct clinical trials, for example delays in the manufacturing of sufficient supply of finished drug product;
- difficulties obtaining Institutional Review Board (*IRB*) approval to conduct a clinical trial at a prospective site or sites;
- challenges in recruiting and enrolling patients to participate in clinical trials, including the proximity of patients to trial sites;
- eligibility criteria for the clinical trial, the nature of the clinical trial protocol, the availability of approved effective treatments for the relevant disease and competition from other clinical trial programs for similar indications;
- severe or unexpected drug-related side effects experienced by patients in a clinical trial;
- delays in validating any endpoints utilized in a clinical trial;
- the FDA may disagree with our clinical trial design and our interpretation of data from clinical trials, or may change the requirements for approval even after it has reviewed and commented on the design for our clinical trials;
- reports from non-clinical or clinical testing of other CNS therapies that raise safety or efficacy concerns; and
- difficulties retaining patients who have enrolled in a clinical trial but may be prone to withdraw due to rigors of the clinical trials, lack of efficacy, side effects, personal issues or loss of interest.
- Clinical trials may also be delayed or terminated as a result of ambiguous or negative interim results. In addition, a clinical trial may be suspended or terminated by us, the FDA, the IRBs at the sites where the IRBs are overseeing a clinical trial, a data and safety monitoring board (DSMB), overseeing the clinical trial at issue or other regulatory authorities due to a number of factors, including, among others
- failure to conduct the clinical trial in accordance with regulatory requirements or our clinical protocols;
- inspection of the clinical trial operations or trial sites by the FDA or other regulatory authorities that reveals deficiencies or violations that require us to undertake corrective action, including the imposition of a clinical hold;
- unforeseen safety issues, including any that could be identified in our ongoing non-clinical carcinogenicity studies, adverse side effects or lack of effectiveness;
- changes in government regulations or administrative actions;
- problems with clinical supply materials; and
- lack of adequate funding to continue clinical trials.

Changes in regulatory requirements, FDA guidance or unanticipated events during our non-clinical studies and clinical trials of our product candidates may occur, which may result in changes to non-clinical studies and clinical trial protocols or additional non-clinical studies and clinical trial requirements, which could result in increased costs to us and could delay our development timeline.

Changes in regulatory requirements, FDA guidance or unanticipated events during our non-clinical studies and clinical trials may force us to amend non-clinical studies and clinical trial protocols or the FDA may impose additional non-clinical studies and clinical trial requirements. Amendments or changes to our clinical trial protocols would require resubmission to the FDA and IRBs for review and approval, which may adversely impact the cost, timing or successful completion of clinical trials. Similarly, amendments to our non-clinical studies may adversely impact the cost, timing, or successful completion of those non-clinical studies. If we experience delays completing, or if we terminate, any of our non-clinical studies or clinical trials, or if we are required to conduct additional non-clinical studies or clinical trials, the commercial prospects for our product candidates may be harmed and our ability to generate product revenue will be delayed.

We rely, and expect that we will continue to rely, on third parties to conduct any clinical trials for our product candidates. If these third parties do not successfully carry out their contractual duties or meet expected deadlines, we may not be able to obtain regulatory approval for or commercialize our product candidates and our business could be substantially harmed.

We do not have the ability to independently conduct clinical trials. We rely on medical institutions, clinical investigators, contract laboratories and other third parties, such as CROs, to conduct clinical trials on our product candidates. We enter into agreements with third-party CROs to provide monitors for and to manage data for our clinical trials, as well as provide other services necessary to prepare for, conduct and complete clinical trials. We rely heavily on these parties for execution of clinical trials for our product candidates and control only certain aspects of their activities. As a result, we have less direct control over the conduct, timing and completion of these clinical trials and the management of data developed through clinical trials than would be the case if we were relying entirely upon our own staff. Communicating with outside parties can also be challenging, potentially leading to mistakes as well as difficulties in coordinating activities. Outside parties may:

- have staffing difficulties;
- fail to comply with contractual obligations;
- experience regulatory compliance issues;
- undergo changes in priorities or become financially distressed; or
- form relationships with other entities, some of which may be our competitors.

These factors may materially adversely affect the willingness or ability of third parties to conduct our clinical trials and may subject us to unexpected cost increases that are beyond our control. Nevertheless, we are responsible for ensuring that each of our clinical trials is conducted in accordance with the applicable protocol, legal, regulatory and scientific requirements and standards, and our reliance on CROs or the NIH does not relieve us of our regulatory responsibilities. We and our CROs and the NIMH are required to comply with regulations and guidelines, including current cGCPs for conducting, monitoring, recording and reporting the results of clinical trials to ensure that the data and results are scientifically credible and accurate, and that the trial patients are adequately informed of the potential risks of participating in clinical trials. These regulations are enforced by the FDA, the Competent Authorities of the Member States of the European Economic Area and comparable foreign regulatory authorities for any products in clinical development. The FDA enforces cGCP regulations through periodic inspections of clinical trial sponsors, principal investigators and trial sites. If we or our CROs fail to comply with applicable cGCPs, the clinical data generated in our clinical trials may be deemed unreliable and the FDA or comparable foreign regulatory authorities may require us to perform additional clinical trials before approving our marketing applications. We cannot assure you that, upon inspection, the FDA will determine that any of our clinical trials comply with cGCPs. In addition, our clinical trials must be conducted with product candidates produced under cGMPs regulations and will require a large number of test patients. Our failure or the failure of our CROs to comply with these regulations may require us to repeat clinical trials, which would delay the regulatory approval process and could also subject us to enforcement action up to and including civil and criminal penalties.

Although we design our clinical trials for our product candidates, we plan to have CROs, and in the case of our initial AV-101 Phase 2a study in MDD, the NIH, conduct the AV-101 Phase 2 and Phase 3 clinical trials. As a result, many important aspects of our drug development programs are outside of our direct control. In addition, the CROs or the NIH, as the case may be, may not perform all of their obligations under arrangements with us or in compliance with regulatory requirements, but we remain responsible and are subject to enforcement action that may include civil penalties up to and including criminal prosecution for any violations of FDA laws and regulations during the conduct of our clinical trials. If the NIH or CROs do not perform clinical trials in a satisfactory manner, breach their obligations to us or fail to comply with regulatory requirements, the development and commercialization of AV-101 and other product candidates may be delayed or our development program materially and irreversibly harmed. We cannot control the amount and timing of resources these CROs or the NIH devote to our program or our clinical products. If we are unable to rely on clinical data collected by our CROs or the NIH, we could be required to repeat, extend the duration of, or increase the size of our clinical trials and this could significantly delay commercialization and require significantly greater expenditures.

If any of our relationships with these third-party CROs or the NIH terminate, we may not be able to enter into arrangements with alternative CROs or collaborators. If CROs or the NIH do not successfully carry out their contractual duties or obligations or meet expected deadlines, if they need to be replaced or if the quality or accuracy of the clinical data they obtain is compromised due to the failure to adhere to our clinical protocols, regulatory requirements or for other reasons, any clinical trials that such CROs or the NIH are associated with may be extended, delayed or terminated, and we may not be able to obtain regulatory approval for or successfully commercialize our product candidates. As a result, we believe that our financial results and the commercial prospects for our product candidates in the subject indication would be harmed, our costs could increase and our ability to generate revenue could be delayed.

We rely completely on third-party suppliers to manufacture our clinical drug supplies for our product candidates, and we intend to rely on third parties to produce non-clinical, clinical and commercial supplies of any future product candidate.

We do not currently have, nor do we plan to acquire, the infrastructure or capability to internally manufacture our clinical drug supply of AV-101 or any other product candidates for use in the conduct of our nonclinical studies and clinical trials, and we lack the internal resources and the capability to manufacture any product candidates on a clinical or commercial scale. The facilities used by our contract manufacturers to manufacture the active pharmaceutical ingredient and final drug product must complete a pre-approval inspection by the FDA and other comparable foreign regulatory agencies to assess compliance with applicable requirements, including cGMPs, after we submit our NDA or relevant foreign regulatory submission to the applicable regulatory agency.

We do not control the manufacturing process of, and are completely dependent on, our contract manufacturers to comply with cGMPs for manufacture of both active drug substances and finished drug products. If our contract manufacturers cannot successfully manufacture material that conforms to our specifications and the strict regulatory requirements of the FDA or applicable foreign regulatory agencies, they will not be able to secure and/or maintain regulatory approval for their manufacturing facilities. In addition, we have no direct control over our contract manufacturers' ability to maintain adequate quality control, quality assurance and qualified personnel. Furthermore, all of our contract manufacturers are engaged with other companies to supply and/or manufacture materials or products for such companies, which exposes our third-party contract manufacturers to regulatory risks for the production of such materials and products. As a result, failure to satisfy the regulatory requirements for the production of those materials and products may affect the regulatory clearance of our contract manufacturers' facilities generally. If the FDA or an applicable foreign regulatory agency determines now or in the future that these facilities for the manufacture of our product candidates are noncompliant, we may need to find alternative manufacturing facilities, which would adversely impact our ability to develop, obtain regulatory approval for or market our product candidates. Our reliance on contract manufacturers also exposes us to the possibility that they, or third parties with access to their facilities, will have access to and may appropriate our trade secrets or other proprietary information.

We do not yet have long-term supply agreements in place with our contract manufacturers and each batch of our product candidates are individually contracted under a quality and supply agreement. If we engage new contract manufacturers, such contractors must complete an inspection by the FDA and other applicable foreign regulatory agencies. We plan to continue to rely upon contract manufacturers and, potentially, collaboration partners, to manufacture commercial quantities of AV-101 and other product candidates, if approved. Our current scale of manufacturing for AV-101 is adequate to support our currently planned needs for additional non-clinical studies and clinical trial supplies.

Even if we receive marketing approval for our product candidates in the United States, we may never receive regulatory approval to market our product candidates outside of the United States.

We have not yet selected any markets outside of the United States where we intend to seek regulatory approval to market our product candidates. In order to market any product outside of the United States, however, we must establish and comply with the numerous and varying safety, efficacy and other regulatory requirements of other countries. Approval procedures vary among countries and can involve additional product candidate testing and additional administrative review periods. The time required to obtain approvals in other countries might differ from that required to obtain FDA approval. The marketing approval processes in other countries may implicate all of the risks detailed above regarding FDA approval in the United States as well as other risks. In particular, in many countries outside of the United States, products must receive pricing and reimbursement approval before the product can be commercialized. Obtaining this approval can result in substantial delays in bringing products to market in such countries. Marketing approval in one country does not ensure marketing approval in another, but a failure or delay in obtaining marketing approval in one country may have a negative effect on the regulatory process in others. Failure to obtain marketing approval in other countries or any delay or other setback in obtaining such approval would impair our ability to market our product candidates in such foreign markets. Any such impairment would reduce the size of our potential market, which could have a material adverse impact on our business, results of operations and prospects.

If we are unable to establish sales and marketing capabilities or enter into agreements with third parties to market and sell our product candidates, we may not be able to generate any revenue.

We do not currently have an infrastructure for the sales, marketing and distribution of pharmaceutical products, nor do we intend to create such capabilities. Therefore, in order to market our product candidates globally, if approved by the FDA or any other regulatory body, we must make contractual arrangements with third parties to perform services related to sales, marketing, managerial and other non-technical capabilities relating to the commercialization of our product candidates. If we are unable to establish adequate contractual arrangements for such sales, marketing and distribution capabilities, or if we are unable to do so on commercially reasonable terms, our business, results of operations, financial condition and prospects will be materially adversely affected.

Even if we receive marketing approval for our product candidates, our product candidates may not achieve broad market acceptance, which would limit the revenue that we generate from their sales.

The commercial success of our product candidates, if approved by the FDA or other applicable regulatory authorities, will depend upon the awareness and acceptance of our product candidates among the medical community, including physicians, patients and healthcare payors. Market acceptance of our product candidates, if approved, will depend on a number of factors, including, among others:

- the efficacy and safety of our product candidates as demonstrated in clinical trials, and, if required by any applicable regulatory authority in connection with the approval for the applicable indications, to provide patients with incremental health benefits, as compared with other available therapies;
- limitations or warnings contained in the labeling approved for our product candidates by the FDA or other applicable regulatory authorities;
- the clinical indications for which our product candidates are approved;
- availability of alternative treatments already approved or expected to be commercially launched in the near future;
- the potential and perceived advantages of our product candidates over current treatment options or alternative treatments, including future alternative treatments;
- the willingness of the target patient population to try new therapies and of physicians to prescribe these therapies;
- the strength of marketing and distribution support and timing of market introduction of competitive products;
- publicity concerning our products or competing products and treatments;
- pricing and cost effectiveness;
- the effectiveness of our sales and marketing strategies;
- our ability to increase awareness of our product candidates through marketing efforts;
- our ability to obtain sufficient third-party coverage or reimbursement; or
- the willingness of patients to pay out-of-pocket in the absence of third-party coverage.

If our product candidates are approved but do not achieve an adequate level of acceptance by patients, physicians and payors, we may not generate sufficient revenue from our product candidates to become or remain profitable. Before granting reimbursement approval, healthcare payors may require us to demonstrate that our product candidates, in addition to treating these target indications, also provide incremental health benefits to patients. Our efforts to educate the medical community and third-party payors about the benefits of our product candidates may require significant resources and may never be successful.

Our product candidates may cause undesirable side effects that could delay or prevent their regulatory approval, limit the commercial profile of an approved label, or result in significant negative consequences following marketing approval, if any.

Undesirable side effects caused by our product candidates could cause us or regulatory authorities to interrupt, delay or halt nonclinical studies and clinical trials and could result in a more restrictive label or the delay or denial of regulatory approval by the FDA or other regulatory authorities.

Further, clinical trials by their nature utilize a sample of the potential patient population. With a limited number of patients and limited duration of exposure, rare and severe side effects of our product candidates may only be uncovered with a significantly larger number of patients exposed to the product candidate. If our product candidates receive marketing approval and we or others identify undesirable side effects caused by such product candidates (or any other similar products) after such approval, a number of potentially significant negative consequences could result, including:

- regulatory authorities may withdraw or limit their approval of such product candidates;
- regulatory authorities may require the addition of labeling statements, such as a “black box” warning or a contraindication;
- we may be required to change the way such product candidates are distributed or administered, conduct additional clinical trials or change the labeling of the product candidates;
- we may be subject to regulatory investigations and government enforcement actions;
- we may decide to remove such product candidates from the marketplace;
- we could be sued and held liable for injury caused to individuals exposed to or taking our product candidates; and
- our reputation may suffer.

We believe that any of these events could prevent us from achieving or maintaining market acceptance of the affected product candidates and could substantially increase the costs of commercializing our product candidates and significantly impact our ability to successfully commercialize our product candidates and generate revenues.

Even if we receive marketing approval for our product candidates, we may still face future development and regulatory difficulties.

Even if we receive marketing approval for our product candidates, regulatory authorities may still impose significant restrictions on our product candidates, indicated uses or marketing or impose ongoing requirements for potentially costly post-approval studies. Our product candidates will also be subject to ongoing FDA requirements governing the labeling, packaging, storage and promotion of the product and record keeping and submission of safety and other post-market information. The FDA has significant post-marketing authority, including, for example, the authority to require labeling changes based on new safety information and to require post-marketing studies or clinical trials to evaluate serious safety risks related to the use of a drug. The FDA also has the authority to require, as part of an NDA or post-approval, the submission of a REMS. Any REMS required by the FDA may lead to increased costs to assure compliance with new post-approval regulatory requirements and potential requirements or restrictions on the sale of approved products, all of which could lead to lower sales volume and revenue.

Manufacturers of drug products and their facilities are subject to continual review and periodic inspections by the FDA and other regulatory authorities for compliance with cGMPs and other regulations. If we or a regulatory agency discover problems with our product candidates, such as adverse events of unanticipated severity or frequency, or problems with the facility where our product candidates are manufactured, a regulatory agency may impose restrictions on our product candidates, the manufacturer or us, including requiring withdrawal of our product candidates from the market or suspension of manufacturing. If we, our product candidates or the manufacturing facilities for our product candidates fail to comply with applicable regulatory requirements, a regulatory agency may, among other things:

- issue warning letters or untitled letters;
- seek an injunction or impose civil or criminal penalties or monetary fines;
- suspend or withdraw marketing approval;
- suspend any ongoing clinical trials;
- refuse to approve pending applications or supplements to applications submitted by us;
- suspend or impose restrictions on operations, including costly new manufacturing requirements; or
- seize or detain products, refuse to permit the import or export of products, or require that we initiate a product recall.

Competing therapies could emerge adversely affecting our opportunity to generate revenue from the sale of our product candidates.

The pharmaceuticals industry is highly competitive. There are many public and private pharmaceutical companies, universities, governmental agencies and other research organizations actively engaged in the research and development of products that may be similar to our product candidates or address similar markets. It is probable that the number of companies seeking to develop products and therapies similar to our products will increase.

Currently, management is unaware of any FDA-approved adjunctive therapy for MDD patients with an inadequate response to standard antidepressants having the same mechanism of action and safety profile as AV-101. However, new antidepressant products with other mechanisms of action or products approved for other indications, including the anesthetic ketamine, are being or may be used off-label for treatment of MDD, as well as other CNS indications for which AV-101 may have therapeutic potential. Additionally, other non-pharmaceutical treatment options, such as psychotherapy and electroconvulsive therapy (*ECT*) are sometimes used before or instead of standard antidepressants to treat patients with MDD.

In the field of new generation antidepressants focused on modulation of the NMDA receptor at the glycine binding co-agonist site, we believe our principal competitor is Allergan, which recently acquired from and is now developing both the intravenously-administered peptide, rapastinel (formerly GLYX-13), and NRX-1074, which may be or may become orally-available, for treatment-resistant MDD.

Many of our potential competitors, alone or with their strategic partners, have substantially greater financial, technical and human resources than we do and significantly greater experience in the discovery and development of product candidates, obtaining FDA and other regulatory approvals of treatments and the commercialization of those treatments. We believe that a range of pharmaceutical and biotechnology companies have programs to develop small molecule drug candidates for the treatment of depression, including MDD, epilepsy, neuropathic pain, Parkinson's disease and other neurological conditions and diseases, including, but not limited to, Abbott Laboratories, Acadia, Allergan, Alkermes, Astra Zeneca, Eli Lilly, GlaxoSmithKline, IntraCellular, Johnson & Johnson, Lundbeck, Merck, Novartis, Ono, Otsuka, Pfizer, Roche, Sage, Sumitomo Dainippon, Teva and Takeda, as well as any affiliates of the foregoing companies. Mergers and acquisitions in the biotechnology and pharmaceutical industries may result in even more resources being concentrated among a smaller number of our competitors. Our commercial opportunity could be reduced or eliminated if our competitors develop and commercialize products that are safer, more effective, have fewer or less severe side effects, are more convenient or are less expensive than any products that we may develop. Our competitors also may obtain FDA or other regulatory approval for their products more rapidly than we may obtain approval for ours, which could result in our competitors establishing a strong market position before we are able to enter the market.

We may seek to establish collaborations, and, if we are not able to establish them on commercially reasonable terms, we may have to alter our development and commercialization plans.

Our drug development programs and the potential commercialization of our product candidates will require substantial additional cash to fund expenses. For some of our product candidates, we may decide to collaborate with pharmaceutical and biotechnology companies for the development and potential commercialization of those product candidates.

We face significant competition in seeking appropriate collaborators. Whether we reach a definitive agreement for collaboration will depend, among other things, upon our assessment of the collaborator's resources and expertise, the terms and conditions of the proposed collaboration and the proposed collaborator's evaluation of a number of factors. Those factors may include the design or results of clinical trials, the likelihood of approval by the FDA or similar regulatory authorities outside the United States, the potential market for the subject product candidate, the costs and complexities of manufacturing and delivering such product candidate to patients, the potential of competing products, the existence of uncertainty with respect to our ownership of technology, which can exist if there is a challenge to such ownership without regard to the merits of the challenge and industry and market conditions generally. The collaborator may also consider alternative product candidates or technologies for similar indications that may be available to collaborate on and whether such collaboration could be more attractive than the one with us for our product candidate. The terms of any collaboration or other arrangements that we may establish may not be favorable to us.

We may also be restricted under existing collaboration agreements from entering into future agreements on certain terms with potential collaborators. Collaborations are complex and time-consuming to negotiate and document. In addition, there have been a significant number of recent business combinations among large pharmaceutical companies that have resulted in a reduced number of potential future collaborators.

We may not be able to negotiate collaborations on a timely basis, on acceptable terms, or at all. If we are unable to do so, we may have to curtail the development of the product candidate for which we are seeking to collaborate, reduce or delay its development program or one or more of our other development programs, delay its potential commercialization or reduce the scope of any sales or marketing activities, or increase our expenditures and undertake development or commercialization activities at our own expense. If we elect to increase our expenditures to fund development or commercialization activities on our own, we may need to obtain additional capital, which may not be available to us on acceptable terms or at all. If we do not have sufficient funds, we may not be able to further develop our product candidates or bring them to market and generate product revenue.

In addition, any future collaboration that we enter into may not be successful. The success of our collaboration arrangements will depend heavily on the efforts and activities of our collaborators. Collaborators generally have significant discretion in determining the efforts and resources that they will apply to these collaborations. Disagreements between parties to a collaboration arrangement regarding clinical development and commercialization matters can lead to delays in the development process or commercializing the applicable product candidate and, in some cases, termination of the collaboration arrangement. These disagreements can be difficult to resolve if neither of the parties has final decision-making authority. Collaborations with pharmaceutical or biotechnology companies and other third parties often are terminated or allowed to expire by the other party. Any such termination or expiration would adversely affect us financially and could harm our business reputation.

We may not be successful in our efforts to identify or discover additional product candidates or we may expend our limited resources to pursue a particular product candidate or indication and fail to capitalize on product candidates or indications that may be more profitable or for which there is a greater likelihood of success.

The success of our business depends primarily upon our ability to identify, develop and commercialize product candidates with commercial and therapeutic potential. Although AV-101 is in Phase 2 clinical development for treatment of depression, we may fail to pursue additional CNS-related Phase 2 development opportunities for AV-101, or identify additional product candidates for clinical development for a number of reasons. Our research methodology may be unsuccessful in identifying new product candidates or our product candidates may be shown to have harmful side effects or may have other characteristics that may make the products unmarketable or unlikely to receive marketing approval.

Because we have limited financial and management resources, we focus on a limited number of research programs and product candidates and are currently focused primarily on development of AV-101, with additional limited focus on NCE drug rescue and RM. As a result, we may forego or delay pursuit of opportunities with other product candidates or for other potential CNS-related indications for AV-101 that later prove to have greater commercial potential. Our resource allocation decisions may cause us to fail to capitalize on viable commercial drugs or profitable market opportunities. Our spending on current and future research and development programs and product candidates for specific indications may not yield any commercially viable drugs. If we do not accurately evaluate the commercial potential or target market for a particular product candidate, we may relinquish valuable rights to that product candidate through future collaboration, licensing or other royalty arrangements in cases in which it would have been more advantageous for us to retain sole development and commercialization rights to such product candidate.

If any of these events occur, we may be forced to abandon our development efforts for a program or programs, which would have a material adverse effect on our business and could potentially cause us to cease operations. Research programs to identify new product candidates require substantial technical, financial and human resources. We may focus our efforts and resources on potential programs or product candidates that ultimately prove to be unsuccessful.

We are subject to healthcare laws and regulations, which could expose us to criminal sanctions, civil penalties, contractual damages, reputational harm and diminished profits and future earnings.

Although we do not currently have any products on the market, once we begin commercializing our products, we may be subject to additional healthcare statutory and regulatory requirements and enforcement by the federal government and the states and foreign governments in which we conduct our business. Healthcare providers, physicians and others will play a primary role in the recommendation and prescription of our product candidates, if approved. Our future arrangements with third-party payors will expose us to broadly applicable fraud and abuse and other healthcare laws and regulations that may constrain the business or financial arrangements and relationships through which we market, sell and distribute our product candidates, if we obtain marketing approval. Restrictions under applicable federal and state healthcare laws and regulations include the following:

- The federal anti-kickback statute prohibits, among other things, persons from knowingly and willfully soliciting, offering, receiving or providing remuneration, directly or indirectly, in cash or in kind, to induce or reward either the referral of an individual for, or the purchase, order or recommendation of, any good or service, for which payment may be made under federal healthcare programs such as Medicare and Medicaid.
- The federal False Claims Act imposes criminal and civil penalties, including those from civil whistleblower or qui tam actions, against individuals or entities for knowingly presenting, or causing to be presented, to the federal government, claims for payment that are false or fraudulent or making a false statement to avoid, decrease, or conceal an obligation to pay money to the federal government.
- The federal Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act, imposes criminal and civil liability for executing a scheme to defraud any healthcare benefit program and also imposes obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of individually identifiable health information.
- The federal false statements statute prohibits knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false statement in connection with the delivery of or payment for healthcare benefits, items or services.
- The federal transparency requirements, sometimes referred to as the “Sunshine Act,” under the Patient Protection and Affordable Care Act, require manufacturers of drugs, devices, biologics and medical supplies that are reimbursable under Medicare, Medicaid, or the Children’s Health Insurance Program to report to the Department of Health and Human Services information related to physician payments and other transfers of value and physician ownership and investment interests.
- Analogous state laws and regulations, such as state anti-kickback and false claims laws and transparency laws, may apply to sales or marketing arrangements and claims involving healthcare items or services reimbursed by non-governmental third-party payors, including private insurers, and some state laws require pharmaceutical companies to comply with the pharmaceutical industry’s voluntary compliance guidelines and the relevant compliance.
- Guidance promulgated by the federal government in addition to requiring drug manufacturers to report information related to payments to physicians and other healthcare providers or marketing expenditures and drug pricing.

Ensuring that our future business arrangements with third parties comply with applicable healthcare laws and regulations could be costly. It is possible that governmental authorities will conclude that our business practices do not comply with current or future statutes, regulations or case law involving applicable fraud and abuse or other healthcare laws and regulations. If our operations, including anticipated activities to be conducted by our sales team, were found to be in violation of any of these laws or any other governmental regulations that may apply to us, we may be subject to significant civil, criminal and administrative penalties, damages, fines and exclusion from government funded healthcare programs, such as Medicare and Medicaid, any of which could substantially disrupt our operations. If any of the physicians or other providers or entities with whom we expect to do business is found not to be in compliance with applicable laws, they may be subject to criminal, civil or administrative sanctions, including exclusions from government funded healthcare programs.

The FDA and other regulatory agencies actively enforce the laws and regulations prohibiting the promotion of off-label uses. If we are found to have improperly promoted off-label uses, we may become subject to significant liability.

The FDA and other regulatory agencies strictly regulate the promotional claims that may be made about prescription products, such as AV-101, if approved. In particular, a product may not be promoted for uses that are not approved by the FDA or such other regulatory agencies as reflected in the product's approved labeling. For example, if we receive marketing approval for AV-101 as an augmentation therapy for MDD, physicians may nevertheless prescribe AV-101 to their patients in a manner that is inconsistent with the approved label. If we are found to have promoted such off-label uses, we may become subject to significant liability. The federal government has levied large civil and criminal fines against companies for alleged improper promotion and has enjoined several companies from engaging in off-label promotion. The FDA has also requested that companies enter into consent decrees or permanent injunctions under which specified promotional conduct is changed or curtailed. If we cannot successfully manage the promotion of our product candidates, if approved, we could become subject to significant liability, which would materially adversely affect our business and financial condition.

Even if approved, reimbursement policies could limit our ability to sell our product candidates.

Market acceptance and sales of our product candidates will depend on reimbursement policies and may be affected by healthcare reform measures. Government authorities and third-party payors, such as private health insurers and health maintenance organizations, decide which medications they will pay for and establish reimbursement levels for those medications. Cost containment is a primary concern in the U.S. healthcare industry and elsewhere. Government authorities and these third-party payors have attempted to control costs by limiting coverage and the amount of reimbursement for particular medications. We cannot be sure that reimbursement will be available for our product candidates and, if reimbursement is available, the level of such reimbursement. Reimbursement may impact the demand for, or the price of, our product candidates. If reimbursement is not available or is available only at limited levels, we may not be able to successfully commercialize our product candidates.

In some foreign countries, particularly in Canada and European countries, the pricing of prescription pharmaceuticals is subject to strict governmental control. In these countries, pricing negotiations with governmental authorities can take six months or longer after the receipt of regulatory approval and product launch. To obtain favorable reimbursement for the indications sought or pricing approval in some countries, we may be required to conduct a clinical trial that compares the cost-effectiveness of our product candidates with other available therapies. If reimbursement for our product candidates is unavailable in any country in which we seek reimbursement, if it is limited in scope or amount, if it is conditioned upon our completion of additional clinical trials, or if pricing is set at unsatisfactory levels, our operating results could be materially adversely affected.

We may seek FDA Orphan Drug designation for one or more of our product candidates, including AV-101. Even if we have obtained FDA Orphan Drug designation for one or more of our product candidates, there may be limits to the regulatory exclusivity afforded by such designation.

We may, in the future, choose to seek FDA Orphan Drug designation for one or more of our product candidates, including AV-101. Even if we obtain Orphan Drug designation from the FDA for any one of our product candidates, there are limitations to the exclusivity afforded by such designation. In the United States, the company that first obtains FDA approval for a designated orphan drug for the specified rare disease or condition receives orphan drug marketing exclusivity for that drug for a period of seven years. This orphan drug exclusivity prevents the FDA from approving another application, including a full NDA to market the same drug for the same orphan indication, except in very limited circumstances, including when the FDA concludes that the later drug is safer, more effective or makes a major contribution to patient care. For purposes of small molecule drugs, the FDA defines "same drug" as a drug that contains the same active moiety and is intended for the same use as the drug in question. To obtain orphan drug exclusivity for a drug that shares the same active moiety as an already approved drug, it must be demonstrated to the FDA that the drug is safer or more effective than the approved orphan designated drug, or that it makes a major contribution to patient care. In addition, a designated orphan drug may not receive orphan drug exclusivity if it is approved for a use that is broader than the indication for which it received orphan designation. In addition, orphan drug exclusive marketing rights in the United States may be lost if the FDA later determines that the request for designation was materially defective or if the manufacturer is unable to assure sufficient quantity of the drug to meet the needs of patients with the rare disease or condition or if another drug with the same active moiety is determined to be safer, more effective, or represents a major contribution to patient care.

Our future growth may depend, in part, on our ability to penetrate foreign markets, where we would be subject to additional regulatory burdens and other risks and uncertainties.

Our future profitability may depend, in part, on our ability to commercialize our product candidates in foreign markets for which we may rely on collaboration with third parties. If we commercialize our product candidates in foreign markets, we would be subject to additional risks and uncertainties, including:

- our customers' ability to obtain reimbursement for our product candidates in foreign markets;
- our inability to directly control commercial activities because we are relying on third parties;
- the burden of complying with complex and changing foreign regulatory, tax, accounting and legal requirements;
- different medical practices and customs in foreign countries affecting acceptance in the marketplace;
- import or export licensing requirements;
- longer accounts receivable collection times;
- longer lead times for shipping;
- language barriers for technical training;
- reduced protection of intellectual property rights in some foreign countries;
- the existence of additional potentially relevant third party intellectual property rights;
- foreign currency exchange rate fluctuations; and
- the interpretation of contractual provisions governed by foreign laws in the event of a contract dispute.

Foreign sales of our product candidates could also be adversely affected by the imposition of governmental controls, political and economic instability, trade restrictions and changes in tariffs.

We are a development stage biopharmaceutical company with no current revenues or approved products, and limited experience developing new drug, biological and/or regenerative medicine candidates, including conducting clinical trials and other areas required for the successful development and commercialization of therapeutic products, which makes it difficult to assess our future viability.

We are a development stage biopharmaceutical company. Although our lead drug candidate is in Phase 2 development, we currently have no approved products and currently generate no revenues, and we have not yet fully demonstrated an ability to overcome many of the fundamental risks and uncertainties frequently encountered by development stage companies in new and rapidly evolving fields of technology, particularly biotechnology. To execute our business plan successfully, we will need to accomplish the following fundamental objectives, either on our own or with strategic collaborators:

- produce product candidates;
- develop and obtain required regulatory approvals for commercialization of products we produce;
- maintain, leverage and expand our intellectual property portfolio;
- establish and maintain sales, distribution and marketing capabilities, and/or enter into strategic partnering arrangements to access such capabilities;
- gain market acceptance for our products; and
- obtain adequate capital resources and manage our spending as costs and expenses increase due to research, production, development, regulatory approval and commercialization of product candidates.

Our future success is highly dependent upon our ability to successfully develop and commercialize AV-101 and discover, as well as produce, develop and commercialize proprietary drug rescue NCEs using our stem cell technology, and we cannot provide any assurance that we will successfully develop and commercialize AV-101 or drug rescue NCEs, or that, if produced, AV-101 or any drug rescue NCE will be successfully commercialized.

Research programs designed to identify and produce drug rescue NCEs require substantial technical, financial and human resources, whether or not any NCEs are ultimately identified and produced. In particular, our drug rescue programs may initially show promise in identifying potential NCEs, yet fail to yield a lead NCE suitable for preclinical, clinical development or commercialization for many reasons, including the following:

- our drug rescue research methodology may not be successful in identifying potential drug rescue NCEs;
- competitors may develop alternatives that render our drug rescue NCEs obsolete;
- a drug rescue NCE may, on further study, be shown to have harmful side effects or other characteristics that indicate it is unlikely to be effective or otherwise does not meet applicable regulatory criteria;
- a drug rescue NCE may not be capable of being produced in commercial quantities at an acceptable cost, or at all; or
- a drug rescue NCE may not be accepted as safe and effective by regulatory authorities, patients, the medical community or third-party payors.

In addition, we do not have a sales or marketing infrastructure, and we, including our executive officers, do not have any significant pharmaceutical sales, marketing or distribution experience. We may seek to collaborate with others to develop and commercialize AV-101, drug rescue NCEs and/or other product candidates if and when they are developed. If we enter into arrangements with third parties to perform sales, marketing and distribution services for our products, the resulting revenues or the profitability from these revenues to us are likely to be lower than if we had sold, marketed and distributed our products ourselves. In addition, we may not be successful in entering into arrangements with third parties to sell, market and distribute AV-101, any drug rescue NCEs or other product candidates or may be unable to do so on terms that are favorable to us. We likely will have little control over such third parties, and any of these third parties may fail to devote the necessary resources and attention to sell, market and distribute our products effectively. If we do not establish sales, marketing and distribution capabilities successfully, in collaboration with third parties, we will not be successful in commercializing our product candidates.

We have limited operating history with respect to drug development, including our anticipated focus on the identification and assessment of potential drug rescue NCEs and no operating history with respect to the production of drug rescue NCEs, and we may never be able to produce a drug rescue NCE.

If we are unable to develop and commercialize AV-101 or produce suitable drug rescue NCEs, we may not be able to generate sufficient revenues to execute our business plan, which likely would result in significant harm to our financial position and results of operations, which could adversely impact our stock price.

There are a number of factors, in addition to the utility of *CardioSafe* 3D, that may impact our ability to identify and produce, develop or out-license and commercialize drug rescue NCEs, independently or with strategic partners, including:

- our ability to identify potential drug rescue candidates in the public domain, obtain sufficient quantities of them, and assess them using our bioassay systems;
- if we seek to rescue drug rescue candidates that are not available to us in the public domain, the extent to which third parties may be willing to out-license or sell certain drug rescue candidates to us on commercially reasonable terms;
- our medicinal chemistry collaborator's ability to design and produce proprietary drug rescue NCEs based on the novel biology and structure-function insight we provide using *CardioSafe* 3D; and
- financial resources available to us to develop and commercialize lead drug rescue NCEs internally, or, if we out-license them to strategic partners, the resources such partners choose to dedicate to development and commercialization of any drug rescue NCEs they license from us.

Even if we do produce proprietary drug rescue NCEs, we can give no assurance that we will be able to develop and commercialize them as a marketable drug, on our own or in collaboration with others. Before we generate any revenues from AV-101 and/or additional drug rescue NCEs we or our potential collaborators must complete preclinical and clinical developments, submit clinical and manufacturing data to the FDA, qualify a third party contract manufacturer, receive regulatory approval in one or more jurisdictions, satisfy the FDA that our contract manufacturer is capable of manufacturing the product in compliance with cGMP, build a commercial organization, make substantial investments and undertake significant marketing efforts ourselves or in partnership with others. We are not permitted to market or promote any of our product candidates before we receive regulatory approval from the FDA or comparable foreign regulatory authorities, and we may never receive such regulatory approval for any of our product candidates.

If CardioSafe 3D fails to predict accurately and efficiently the cardiac effects, both toxic and nontoxic, of drug rescue candidates and drug rescue NCEs, then our drug rescue programs will be adversely affected.

Our success is partly dependent on our ability to use *CardioSafe 3D* to identify and predict, accurately and efficiently, the potential toxic and nontoxic cardiac effects of drug rescue candidates and drug rescue NCEs. If *CardioSafe 3D* is not capable of providing physiologically relevant and clinically predictive information regarding human cardiac biology, our drug rescue business will be adversely affected.

CardioSafe 3D may not be meaningfully more predictive of the behavior of human cells than existing methods.

The success of our drug rescue programs is highly dependent upon *CardioSafe 3D* being more accurate, efficient and clinically predictive than long-established surrogate safety models, including animal cells and live animals, and immortalized, primary and transformed cells, currently used by pharmaceutical companies and others. We cannot give assurance that *CardioSafe 3D* will be more efficient or accurate at predicting the heart safety of new drug candidates than the testing models currently used. If *CardioSafe 3D* fails to provide a meaningful difference compared to existing or new models in predicting the behavior of human heart, respectively, their utility for drug rescue will be limited and our drug rescue business will be adversely affected.

We may invest in producing drug rescue NCEs for which there proves to be no demand.

To generate revenue from our drug rescue activities, we must produce proprietary drug rescue NCEs for which there proves to be demand within the healthcare marketplace, and, if we intend to out-license a particular drug rescue NCE for development and commercialization prior to market approval, then also among pharmaceutical companies and other potential collaborators. However, we may produce drug rescue NCEs for which there proves to be no or limited demand in the healthcare market and/or among pharmaceutical companies and others. If we misinterpret market conditions, underestimate development costs and/or seek to rescue the wrong drug rescue candidates, we may fail to generate sufficient revenue or other value, on our own or in collaboration with others, to justify our investments, and our drug rescue business may be adversely affected.

We may experience difficulty in producing human cells and our future stem cell technology research and development efforts may not be successful within the timeline anticipated, if at all.

Our human pluripotent stem cell technology is technically complex, and the time and resources necessary to develop various human cell types and customized bioassay systems are difficult to predict in advance. We might decide to devote significant personnel and financial resources to research and development activities designed to expand, in the case of drug rescue, and explore, in the case of drug discovery and regenerative medicine, potential applications of our stem cell technology platform. In particular, we may conduct exploratory nonclinical RM programs involving blood, bone, cartilage, heart, and/or liver cells. Although we and our collaborators have developed proprietary protocols for the production of multiple differentiated cell types, we could encounter difficulties in differentiating and producing sufficient quantities of particular cell types, even when following these proprietary protocols. These difficulties could result in delays in production of certain cells, assessment of certain drug rescue candidates and drug rescue NCEs, design and development of certain human cellular assays and performance of certain exploratory nonclinical regenerative medicine studies. In the past, our stem cell research and development projects have been significantly delayed when we encountered unanticipated difficulties in differentiating human pluripotent stem cells into heart and liver cells. Although we have overcome such difficulties in the past, we may have similar delays in the future, and we may not be able to overcome them or obtain any benefits from our future stem cell technology research and development activities. Any delay or failure by us, for example, to produce functional, mature blood, bone, cartilage, and liver cells could have a substantial and material adverse effect on our potential drug discovery, drug rescue and regenerative medicine business opportunities and results of operations.

Restrictions on research and development involving human embryonic stem cells and religious and political pressure regarding such stem cell research and development could impair our ability to conduct or sponsor certain potential collaborative research and development programs and adversely affect our prospects, the market price of our common stock and our business model.

Some of our research and development programs may involve the use of human cells derived from our controlled differentiation of human embryonic stem cells (hESCs). Some believe the use of hESCs gives rise to ethical and social issues regarding the appropriate use of these cells. Our research related to differentiation of hESCs may become the subject of adverse commentary or publicity, which could significantly harm the market price of our common stock. Although now substantially less than in years past, certain political and religious groups in the United States and elsewhere voice opposition to hESC technology and practices. We may use hESCs derived from excess fertilized eggs that have been created for clinical use in *in vitro* fertilization (IVF) procedures and have been donated for research purposes with the informed consent of the donors after a successful IVF procedure because they are no longer desired or suitable for IVF. Certain academic research institutions have adopted policies regarding the ethical use of human embryonic tissue. These policies may have the effect of limiting the scope of future collaborative research opportunities with such institutions, thereby potentially impairing our ability to conduct certain research and development in this field that we believe is necessary to expand the drug rescue capabilities of our technology, which would have a material adverse effect on our business.

The use of embryonic or fetal tissue in research (including the derivation of hESCs) in other countries is regulated by the government, and varies widely from country to country. Government-imposed restrictions with respect to use of hESCs in research and development could have a material adverse effect on us by harming our ability to establish critical collaborations, delaying or preventing progress in our research and development, and causing a decrease in the market interest in our stock.

The foregoing potential ethical concerns do not apply to our use of induced pluripotent stem cells (iPSCs) because their derivation does not involve the use of embryonic tissues.

We have assumed that the biological capabilities of iPSCs and hESCs are likely to be comparable. If it is discovered that this assumption is incorrect, our exploratory research and development activities focused on potential regenerative medicine applications of our stem cell technology platform could be harmed.

We may use both hESCs and iPSCs to produce human cells for our customized *in vitro* assays for drug discovery and drug rescue purposes. However, we anticipate that our future exploratory research and development, if any, focused on potential regenerative medicine applications of our stem cell technology platform primarily will involve iPSCs. With respect to iPSCs, we believe scientists are still somewhat uncertain about the clinical utility, life span, and safety of such cells, and whether such cells differ in any clinically significant ways from hESCs. If we discover that iPSCs will not be useful for whatever reason for potential regenerative medicine programs, this would negatively affect our ability to explore expansion of our platform in that manner, including, in particular, where it would be preferable to use iPSCs to reproduce rather than approximate the effects of certain specific genetic variations.

If we fail to comply with environmental, health and safety laws and regulations, we could become subject to fines or penalties or incur costs that could have a material adverse effect on the success of our business.

We are subject to numerous environmental, health and safety laws and regulations, including those governing laboratory procedures and the handling, use, storage, treatment and disposal of hazardous materials and wastes. Our operations involve the use of hazardous and flammable materials, including chemicals and biological materials. Our operations also produce hazardous waste products. We generally contract with third parties for the disposal of these materials and wastes. We cannot eliminate the risk of contamination or injury from these materials. In the event of contamination or injury resulting from our use of hazardous materials, we could be held liable for any resulting damages, and any liability could exceed our resources. We also could incur significant costs associated with civil or criminal fines and penalties.

Although we maintain workers' compensation insurance to cover us for costs and expenses we may incur due to injuries to our employees resulting from the use of hazardous materials, this insurance may not provide adequate coverage against potential liabilities. We do not maintain insurance for environmental liability or toxic tort claims that may be asserted against us in connection with our storage or disposal of biological, hazardous or radioactive materials.

In addition, we may incur substantial costs in order to comply with current or future environmental, health and safety laws and regulations. These current or future laws and regulations may impair our research, development or production efforts. Failure to comply with these laws and regulations also may result in substantial fines, penalties or other sanctions, which could have a material adverse effect on our operations.

To the extent our research and development activities involve using iPSCs, we will be subject to complex and evolving laws and regulations regarding privacy and informed consent. Many of these laws and regulations are subject to change and uncertain interpretation, and could result in claims, changes to our research and development programs and objectives, increased cost of operations or otherwise harm the Company.

To the extent that we pursue research and development activities involving iPSCs, we will be subject to a variety of laws and regulations in the United States and abroad that involve matters central to such research and development activities, including obligations to seek informed consent from donors for the use of their blood and other tissue to produce, or have produced for us, iPSCs, as well as state and federal laws that protect the privacy of such donors. United States federal and state and foreign laws and regulations are constantly evolving and can be subject to significant change. If we engage in iPSC-related research and development activities in countries other than the United States, we may become subject to foreign laws and regulations relating to human subjects research and other laws and regulations that are often more restrictive than those in the United States. In addition, both the application and interpretation of these laws and regulations are often uncertain, particularly in the rapidly evolving stem cell technology sector in which we operate. These laws and regulations can be costly to comply with and can delay or impede our research and development activities, result in negative publicity, increase our operating costs, require significant management time and attention and subject us to claims or other remedies, including fines or demands that we modify or cease existing business practices.

Legal, social and ethical concerns surrounding the use of iPSCs, biological materials and genetic information could impair our operations.

To the extent that our future stem cell research and development activities involve the use of iPSCs and the manipulation of human tissue and genetic information, the information we derive from such iPSC-related research and development activities could be used in a variety of applications, which may have underlying legal, social and ethical concerns, including the genetic engineering or modification of human cells, testing for genetic predisposition for certain medical conditions and stem cell banking. Governmental authorities could, for safety, social or other purposes, call for limits on or impose regulations on the use of iPSCs and genetic testing or the manufacture or use of certain biological materials involved in our iPSC-related research and development programs. Such concerns or governmental restrictions could limit our future research and development activities, which could have a material adverse effect on our business, financial condition and results of operations.

Our human cellular bioassay systems and human cells we derive from human pluripotent stem cells, although not currently subject to regulation by the FDA or other regulatory agencies as biological products or drugs, could become subject to regulation in the future.

The human cells we produce from hPSCs and our customized bioassay systems using such cells, including *CardioSafe* 3D, are not currently sold, for research purposes or any other purpose, to biotechnology or pharmaceutical companies, government research institutions, academic and nonprofit research institutions, medical research organizations or stem cell banks, and they are not therapeutic procedures. As a result, they are not subject to regulation as biological products or drugs by the FDA or comparable agencies in other countries. However, if, in the future, we seek to include human cells we derive from hPSCs in therapeutic applications or product candidates, such applications and/or product candidates would be subject to the FDA's pre- and post-market regulations. For example, if we seek to develop and market human cells we produce for use in performing regenerative medicine applications, such as tissue engineering or organ replacement, we would first need to obtain FDA pre-market clearance or approval. Obtaining such clearance or approval from the FDA is expensive, time-consuming and uncertain, generally requiring many years to obtain, and requiring detailed and comprehensive scientific and clinical data. Notwithstanding the time and expense, these efforts may not result in FDA approval or clearance. Even if we were to obtain regulatory approval or clearance, it may not be for the uses that we believe are important or commercially attractive.

Risks Related to Our Financial Position

We have incurred significant net losses since inception and we will continue to incur substantial operating losses for the foreseeable future. We may never achieve or sustain profitability, which would depress the market price of our common stock, and could cause you to lose all or a part of your investment.

We have incurred significant net losses in each fiscal year since our inception in 1998, including net losses of \$47.2 million, which includes \$26.7 million of non-cash expense related to the extinguishment of essentially all of our outstanding promissory notes and certain other indebtedness, and \$13.9 million during the fiscal years ended March 31, 2016 and 2015, respectively, and a net loss of \$5.1 million in the six months ended September 30, 2016. As of September 30, 2016, we had an accumulated deficit of approximately \$136.8 million. We do not know whether or when we will become profitable. Substantially all of our operating losses have resulted from costs incurred in connection with our research and development programs and from general and administrative costs associated with our operations. We expect to incur increasing levels of operating losses over the next several years and for the foreseeable future. Our prior losses, combined with expected future losses, have had and will continue to have an adverse effect on our stockholders' deficit and working capital. We expect our research and development expenses to significantly increase in connection with non-clinical studies and clinical trials of our product candidates. In addition, if we obtain marketing approval for our product candidates, we may incur significant sales, marketing and outsourced-manufacturing expenses should we elect not to collaborate with one or more third parties for such services and capabilities. As a public company, we incur additional costs associated with operating as a public company. As a result, we expect to continue to incur significant and increasing operating losses for the foreseeable future. Because of the numerous risks and uncertainties associated with developing pharmaceutical products, we are unable to predict the extent of any future losses or when we will become profitable, if at all. Even if we do become profitable, we may not be able to sustain or increase our profitability on a quarterly or annual basis.

Our ability to become profitable depends upon our ability to generate revenues. To date, we have generated approximately \$16.4 million in revenues, primarily from the receipt of research and development grant awards from the NIH, not including the fair market value of the ongoing NIH-funded Phase 2a MDD study of AV-101. We have not yet commercialized any product or generated any revenues from product sales, and we do not know when, or if, we will generate any revenue from product sales. We do not expect to generate significant revenue unless and until we obtain marketing approval of, and begin to experience sales of, AV-101, or we enter into one or more development and commercialization agreements with respect to AV-101 or one or more other product candidates. Our ability to generate revenue depends on a number of factors, including, but not limited to, our ability to:

- initiate and successfully complete preclinical and clinical trials that meet their prescribed endpoints;
- initiate and successfully complete all safety studies required to obtain U.S. and foreign marketing approval for our product candidates;
- commercialize our product candidates, if approved, by developing a sales force or entering into collaborations with third parties; and
- achieve market acceptance of our product candidates in the medical community and with third-party payors.

Unless we enter into a development and commercialization collaboration or partnership agreement, we expect to incur significant sales and marketing costs as we prepare to commercialize AV-101 or other product candidates. Even if we initiate and successfully complete pivotal clinical trials of AV-101 or other product candidates, and AV-101 or other product candidates are approved for commercial sale, and despite expending these costs, AV-101 or other product candidates may not be commercially successful. We may not achieve profitability soon after generating product sales, if ever. If we are unable to generate product revenue, we will not become profitable and may be unable to continue operations without continued funding.

Despite consummation of the May 2016 Public Offering (defined below), we require additional financing to execute our business plan and continue to operate as a going concern.

Our audited consolidated financial statements for the year ended March 31, 2016 and our condensed consolidated financial statements for the six months ended September 30, 2016 have been prepared assuming we will continue to operate as a going concern. Because we continue to experience net operating losses, our ability to continue as a going concern is subject to our ability to obtain necessary funding from outside sources, including obtaining additional funding from the sale of our securities or obtaining loans and grant awards from financial institutions and/or government agencies where possible. Our continued net operating losses increase the difficulty in completing such sales or securing alternative sources of funding, and there can be no assurances that we will be able to obtain such funding on favorable terms or at all. If we are unable to obtain sufficient financing from the sale of our securities or from alternative sources, we may be required to reduce, defer, or discontinue certain or all of our research and development activities or we may not be able to continue as a going concern.

Since our inception, most of our resources have been dedicated to research and development of AV-101 and the drug rescue capabilities of our stem cell technology platform. In particular, we have expended substantial resources advancing AV-101 through preclinical development and Phase 1 clinical safety studies, and developing *CardioSafe* 3D for drug rescue applications, and we will continue to expend substantial resources for the foreseeable future developing and commercializing AV-101, and, potentially, developing drug rescue NCEs and RM therapies. These expenditures will include costs associated with general and administrative costs, facilities costs, research and development, acquiring new technologies, manufacturing product candidates, conducting preclinical experiments and clinical trials and obtaining regulatory approvals, as well as commercializing any products approved for sale.

At March 31, 2016, our existing cash and cash equivalents were not sufficient to fund our current operations for the next 12 months. However, as described in Note 8, *Capital Stock*, to the accompanying Condensed Consolidated Financial Statements for the six months ended September 30, 2016 included elsewhere in this Quarterly Report, on May 16, 2016, we consummated an underwritten public offering, pursuant to which we issued an aggregate of 2,570,040 registered shares of our common stock at a public sales price of \$4.24 per share and five-year warrants, exercisable at \$5.30 per share, to purchase an aggregate of 2,705,883 shares of our common stock at a public sales price of \$0.01 per warrant share, including shares and warrants issued pursuant to the exercise of the underwriters' over-allotment option, resulting in gross proceeds of approximately \$10.9 million (*May 2016 Public Offering*). Our net proceeds from the May 2016 Public Offering were approximately \$9.5 million after deducting underwriters' commissions and other expenses of the offering. Additionally, in February 2015, we entered into the CRADA with the NIH, under which the NIH is fully funding and conducting the initial Phase 2a clinical efficacy and safety of AV-101 in MDD. However, we have no current source of revenue to sustain our present activities, and we do not expect to generate revenue until, and unless, we (i) out-license or sell AV-101, a drug rescue NCE, and/or another drug candidate unrelated to AV-101 to third-parties, (ii) enter into license arrangements involving our stem cell technology, or (iii) obtain approval from the FDA or other regulatory authorities and successfully commercialize, on our own or through a future collaboration, one or more of our compounds.

As the outcome of our AV-101 and NCE drug rescue activities and future anticipated clinical trials is highly uncertain, we cannot reasonably estimate the actual amounts necessary to successfully complete the development and commercialization of our product candidates, on our own or in collaboration with others. In addition, other unanticipated costs may arise. As a result of these and other factors, we will need to seek additional capital in the near term to meet our future operating requirements, including capital necessary to obtain regulatory approval for, and to commercialize, our product candidates, and may seek additional capital in the event there exists favorable market conditions or strategic considerations even if we believe we have sufficient funds for our current or future operating plans. We are considering a range of potential sources of funding, including public or private equity or debt financings, government or other third-party funding, marketing and distribution arrangements and other collaborations, strategic alliances and licensing arrangements or a combination of these approaches, and we may complete additional financing arrangements in 2016. Raising funds in the current economic environment may present additional challenges. Even if we believe we have sufficient funds for our current or future operating plans, we may seek additional capital if market conditions are favorable or if we have specific strategic considerations.

Our future capital requirements depend on many factors, including:

- the number and characteristics of the product candidates we pursue, including AV-101 and drug rescue NCEs;
- the scope, progress, results and costs of researching and developing our product candidates, and conducting preclinical and clinical studies;
- the timing of, and the costs involved in, obtaining regulatory approvals for our product candidates;
- the cost of commercialization activities if any of our product candidates are approved for sale, including marketing, sales and distribution costs;
- the cost of manufacturing our product candidates and any products we successfully commercialize;
- our ability to establish and maintain strategic partnerships, licensing or other arrangements and the financial terms of such agreements;
- market acceptance of our products;
- the effect of competing technological and market developments;
- our ability to obtain government funding for our programs;
- the costs involved in obtaining and enforcing patents to preserve our intellectual property;
- the costs involved in defending against such claims that we infringe third-party patents or violate other intellectual property rights and the outcome of such litigation;
- the timing, receipt and amount of potential future licensee fees, milestone payments, and sales of, or royalties on, our future products, if any; and
- the extent to which we acquire or invest in businesses, products and technologies, although we currently have no commitments or agreements relating to any of these types of transactions.

Any additional fundraising efforts will divert certain members of our management team from their day-to-day activities, which may adversely affect our ability to develop and commercialize our product candidates. In addition, we cannot guarantee that future financing will be available in sufficient amounts, in a timely manner, or on terms acceptable to us, if at all, and the terms of any financing may adversely affect the holdings or the rights of our stockholders and the issuance of additional securities, whether equity or debt, by us, or the possibility of such issuance, may cause the market price of our shares to decline. The sale of additional equity securities and the conversion or exchange of certain of our outstanding securities will dilute all of our stockholders. The incurrence of debt could result in increased fixed payment obligations and we could be required to agree to certain restrictive covenants, such as limitations on our ability to incur additional debt, limitations on our ability to acquire, sell or license intellectual property rights and other operating restrictions that could adversely impact our ability to conduct our business. We could also be required to seek funds through arrangements with collaborative partners or otherwise at an earlier stage than otherwise would be desirable and we may be required to relinquish rights to some of our technologies or product candidate or otherwise agree to terms unfavorable to us, any of which may have a material adverse effect on our business, operating results and prospects.

If we are unable to obtain additional funding on a timely basis and on acceptable terms, we may be required to significantly curtail, delay or discontinue one or more of our research or product development programs or the commercialization of any product candidate or be unable to continue or expand our operations or otherwise capitalize on our business opportunities, as desired, which could materially affect our business, financial condition and results of operations.

Proceeds from recent financing activity, including the May 2016 Public Offering will not be sufficient to complete the Phase 2b MDD Study, resulting in the need for additional financing.

Although we anticipate that the net proceeds from the May 2016 Public Offering will provide sufficient funding for our operations through the release of topline results of our fully-funded, NIH-sponsored AV-101 Phase 2a clinical study in MDD (*Phase 2a MDD Study*), anticipated in the second quarter of 2017, as well as the launch and conduct of a portion of our AV-101 Phase 2b clinical study in MDD (*Phase 2b MDD Study*), the proceeds received will not be sufficient to complete the Phase 2b MDD Study. We believe an additional \$12.0 million or more will be required during the next 24 months to complete the Phase 2b MDD Study and fund our operations through the second half of calendar 2018. No assurances can be provided that such additional capital will be available to us when necessary, on reasonable terms, or at all. In the event we are unable to raise such additional capital, our operations, including the conduct of the Phase 2b MDD Study, will be negatively and materially affected.

Raising additional capital will cause dilution to our existing stockholders, and may restrict our operations or require us to relinquish rights.

We intend to pursue private and public equity offerings, debt financings, collaborations and licensing arrangements in 2016 and beyond. To the extent that we raise additional capital through the sale of common stock or securities convertible or exchangeable into common stock, or to the extent, for strategic purposes, we convert or exchange certain of our outstanding securities into common stock, our current stockholders' ownership interest in our company will be diluted. In addition, the terms of any such securities may include liquidation or other preferences that materially adversely affect rights of our stockholders. Debt financing, if available, would increase our fixed payment obligations and may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends. If we raise additional funds through collaboration, strategic partnerships and licensing arrangements with third parties, we may have to relinquish valuable rights to our product candidates, our intellectual property, future revenue streams or grant licenses on terms that are not favorable to us.

Some of our programs have been partially supported by government grant awards, which may not be available to us in the future.

Since inception, we have received substantial funds under grant award programs funded by state and federal governmental agencies, such as the NIH, the NIH's National Institute of Neurological Disease and Stroke and the NIH's National Institute of Mental Health, and the California Institute for Regenerative Medicine. To fund a portion of our future research and development programs, we may apply for additional grant funding from such or similar governmental organizations. However, funding by these governmental organizations may be significantly reduced or eliminated in the future for a number of reasons. For example, some programs are subject to a yearly appropriations process in Congress. In addition, we may not receive funds under future grants because of budgeting constraints of the agency administering the program. Therefore, we cannot assure you that we will receive any future grant funding from any government organization or otherwise. A restriction on the government funding available to us could reduce the resources that we would be able to devote to future research and development efforts. Such a reduction could delay the introduction of new products and hurt our competitive position.

Our ability to use net operating losses to offset future taxable income is subject to certain limitations.

As of March 31, 2016, we had federal and state net operating loss carryforwards of \$67.9 million and \$60.1 million, respectively, which begin to expire in fiscal 2017. Under Section 382 of the Internal Revenue Code of 1986, as amended (the *Code*) changes in our ownership may limit the amount of our net operating loss carryforwards that could be utilized annually to offset our future taxable income, if any. This limitation would generally apply in the event of a cumulative change in ownership of our company of more than 50% within a three-year period. Any such limitation may significantly reduce our ability to utilize our net operating loss carryforwards and tax credit carryforwards before they expire. Any such limitation, whether as the result of future offerings, prior private placements, sales of our common stock by our existing stockholders or additional sales of our common stock by us in the future, could have a material adverse effect on our results of operations in future years. We have not completed a study to assess whether an ownership change for purposes of Section 382 has occurred, or whether there have been multiple ownership changes since our inception, due to the significant costs and complexities associated with such study.

General Company-Related Risks

If we fail to attract and retain senior management and key scientific personnel, we may be unable to successfully produce, develop and commercialize AV-101, drug rescue NCEs, other potential product candidates and other commercial applications of our stem cell technology.

Our success depends in part on our continued ability to attract, retain and motivate highly qualified management and scientific and technical personnel. We are highly dependent upon our Chief Executive Officer, President and Chief Scientific Officer, Chief Medical Officer and Chief Financial Officer, as well as other employees, consultants and scientific collaborators. As of the date of this Quarterly Report, we have ten full-time employees, which may make us more reliant on our individual employees than companies with a greater number of employees. The loss of services of any of these individuals could delay or prevent the successful development of AV-101, drug rescue NCEs, other product candidates, and other applications of our stem cell technology, including our production and assessment of potential drug rescue NCEs or disrupt our administrative functions.

Although we have not historically experienced unique difficulties attracting and retaining qualified employees, we could experience such problems in the future. For example, competition for qualified personnel in the biotechnology and pharmaceuticals field is intense. We will need to hire additional personnel as we expand our research and development and administrative activities. We may not be able to attract and retain quality personnel on acceptable terms.

In addition, we rely on a diverse range of strategic consultants and advisors, including manufacturing, scientific and clinical development, and regulatory advisors, to assist us in designing and implementing our research and development and regulatory strategies and plans, including our AV-101 development and drug rescue strategies and plans. Our consultants and advisors may be employed by employers other than us and may have commitments under consulting or advisory contracts with other entities that may limit their availability to us.

As we seek to advance development of AV-101 for MDD and other CNS-related conditions, as well as drug rescue and stem cell technology-related RM programs, we will need to expand our research and development capabilities and/or contract with third parties to provide these capabilities for us. As our operations expand, we expect that we will need to manage additional relationships with various strategic partners and other third parties. Future growth will impose significant added responsibilities on members of management. Our future financial performance and our ability to develop and commercialize our product candidates and to compete effectively will depend, in part, on our ability to manage any future growth effectively. To that end, we must be able to manage our research and development efforts effectively and hire, train and integrate additional management, administrative and technical personnel. The hiring, training and integration of new employees may be more difficult, costly and/or time-consuming for us because we have fewer resources than a larger organization. We may not be able to accomplish these tasks, and our failure to accomplish any of them could prevent us from successfully growing the company.

If product liability lawsuits are brought against us, we may incur substantial liabilities and may be required to limit commercialization of our product candidates.

If we develop AV-101, drug rescue NCEs, other product candidates, or regenerative medicine product candidates, either on our own or in collaboration with others, we will face inherent risks of product liability as a result of the required clinical testing of such product candidates, and will face an even greater risk if we or our collaborators commercialize any such product candidates. For example, we may be sued if AV-101, any drug rescue NCE, other product candidate, or regenerative medicine product candidate we develop allegedly causes injury or is found to be otherwise unsuitable during product testing, manufacturing, marketing or sale. Any such product liability claims may include allegations of defects in manufacturing, defects in design, a failure to warn of dangers inherent in the product, negligence, strict liability, and a breach of warranties. Claims could also be asserted under state consumer protection acts. If we cannot successfully defend ourselves against product liability claims, we may incur substantial liabilities or be required to limit commercialization of our product candidates. Even successful defense would require significant financial and management resources. Regardless of the merits or eventual outcome, liability claims may result in:

- decreased demand for products that we may develop;
- injury to our reputation;
- withdrawal of clinical trial participants;
- costs to defend the related litigation;
- a diversion of management's time and our resources;
- substantial monetary awards to trial participants or patients;
- product recalls, withdrawals or labeling, marketing or promotional restrictions;

Our inability to obtain and retain sufficient product liability insurance at an acceptable cost to protect against potential product liability claims could prevent or inhibit the commercialization of products we develop. Although we maintain liability insurance, any claim that may be brought against us could result in a court judgment or settlement in an amount that is not covered, in whole or in part, by our insurance or that is in excess of the limits of our insurance coverage. Our insurance policies also have various exclusions, and we may be subject to a product liability claim for which we have no coverage. We will have to pay any amounts awarded by a court or negotiated in a settlement that exceed our coverage limitations or that are not covered by our insurance, and we may not have, or be able to obtain, sufficient capital to pay such amounts.

As a public company, we incur significant administrative workload and expenses to comply with U.S. regulations and requirements imposed by The NASDAQ Stock Market concerning corporate governance and public disclosure.

As a public company with common stock listed on The NASDAQ Capital Market, we must comply with various laws, regulations and requirements, including certain provisions of the Sarbanes-Oxley Act of 2002, as well as rules implemented by the SEC and The NASDAQ Stock Market. Complying with these statutes, regulations and requirements, including our public company reporting requirements, continues to occupy a significant amount of the time of management and involves significant accounting, legal and other expenses. Furthermore, these laws, regulations and requirements require us to observe greater corporate governance practices than we have employed in the past, including, but not limited to maintaining a sufficient number of independent directors, increased frequency of board meetings, and holding annual stockholder meetings. Our efforts to comply with these regulations are likely to result in increased general and administrative expenses and management time and attention directed to compliance activities.

Unfavorable global economic conditions could adversely affect our business, financial condition or results of operations.

Our results of operations could be adversely affected by general conditions in the global economy and in the global financial and stock markets. Global financial crises cause extreme volatility and disruptions in the capital and credit markets. A severe or prolonged economic downturn, such as the recent global financial crisis, could result in a variety of risks to our business, including, weakened demand for our product candidates and our ability to raise additional capital when needed on acceptable terms, if at all. A weak or declining economy could also strain our suppliers, possibly resulting in supply disruption, or cause our customers to delay making payments for our services. Any of the foregoing could harm our business and we cannot anticipate all of the ways in which the current economic climate and financial market conditions could adversely impact our business.

We or the third parties upon whom we depend may be adversely affected by natural disasters and our business continuity and disaster recovery plans may not adequately protect us from a serious disaster.

Natural disasters could severely disrupt our operations, and have a material adverse effect on our business, results of operations, financial condition and prospects. If a natural disaster, power outage or other event occurred that prevented us from using all or a significant portion of our headquarters, that damaged critical infrastructure, such as the manufacturing facilities of our third-party CMOs, or that otherwise disrupted operations, it may be difficult or, in certain cases, impossible for us to continue our business for a substantial period of time. The disaster recovery and business continuity plans we have in place may prove inadequate in the event of a serious disaster or similar event. We may incur substantial expenses as a result of the limited nature of our disaster recovery and business continuity plans, which could have a material adverse effect on our business.

Our internal computer systems, or those of our third-party CROs or other contractors or consultants, may fail or suffer security breaches, which could result in a material disruption of our product candidates' development programs.

Despite the implementation of security measures, our internal computer systems and those of our third-party CROs and other contractors and consultants are vulnerable to damage from computer viruses, unauthorized access, natural disasters, terrorism, war and telecommunication and electrical failures. While we have not experienced any such system failure, accident, or security breach to date, if such an event were to occur and cause interruptions in our operations, it could result in a material disruption of our programs. For example, the loss of clinical trial data for AV-101 or other product candidates could result in delays in our regulatory approval efforts and significantly increase our costs to recover or reproduce the data. To the extent that any disruption or security breach results in a loss of or damage to our data or applications or other data or applications relating to our technology or product candidates, or inappropriate disclosure of confidential or proprietary information, we could incur liabilities and the further development of our product candidates could be delayed.

We may acquire businesses or products, or form strategic alliances, in the future, and we may not realize the benefits of such acquisitions.

We may acquire additional businesses or products, form strategic alliances or create joint ventures with third parties that we believe will complement or augment our existing business. If we acquire businesses with promising markets or technologies, we may not be able to realize the benefit of acquiring such businesses if we are unable to successfully integrate them with our existing operations and company culture. We may encounter numerous difficulties in developing, manufacturing and marketing any new products resulting from a strategic alliance or acquisition that delay or prevent us from realizing their expected benefits or enhancing our business. We cannot assure you that, following any such acquisition, we will achieve the expected synergies to justify the transaction.

Risks Related to Our Intellectual Property Rights

If we are unable to adequately protect our proprietary technology, or obtain and maintain issued patents that are sufficient to protect our product candidates, others could compete against us more directly, which would have a material adverse impact on our business, results of operations, financial condition and prospects.

We strive to protect and enhance the proprietary technologies that we believe are important to our business, including seeking patents intended to cover our products and compositions, their methods of use and any other inventions we consider are important to the development of our business. We also rely on trade secrets to protect aspects of our business that are not amenable to, or that we do not consider appropriate for, patent protection.

Our success will depend significantly on our ability to obtain and maintain patent and other proprietary protection for commercially important technology, inventions and know-how related to our business, to defend and enforce our patents, should they issue, to preserve the confidentiality of our trade secrets and to operate without infringing the valid and enforceable patents and proprietary rights of third parties. We also rely on know-how, continuing technological innovation and in-licensing opportunities to develop, strengthen and maintain the proprietary position of our product candidates. We own patent applications related to AV-101 and we own and have licensed patents and patent applications related to human pluripotent stem cell technology.

We currently have no issued patents covering AV-101. We cannot provide any assurances that any of our numerous pending U.S. and foreign patent applications relating to AV-101 will mature into issued patents and, if they do, that such patents will include claims with a scope sufficient to protect AV-101 or otherwise provide any competitive advantage. Moreover, other parties may have developed technologies that may be related or competitive to our approach, and may have filed or may file patent applications and may have received or may receive patents that may overlap or conflict with our patent applications, either by claiming the same methods or formulations or by claiming subject matter that could dominate our patent position. Such third-party patent positions may limit or even eliminate our ability to obtain patent protection.

The patent positions of biotechnology and pharmaceutical companies, including our patent position, involve complex legal and factual questions, and, therefore, the issuance, scope, validity and enforceability of any patent claims that we may obtain cannot be predicted with certainty. Patents, if issued, may be challenged, deemed unenforceable, invalidated, or circumvented. U.S. patents and patent applications may also be subject to interference proceedings, *ex parte* reexamination, or *inter partes* review proceedings, supplemental examination and challenges in district court. Patents may be subjected to opposition, post-grant review, or comparable proceedings lodged in various foreign, both national and regional, patent offices. These proceedings could result in either loss of the patent or denial of the patent application or loss or reduction in the scope of one or more of the claims of the patent or patent application. In addition, such proceedings may be costly. Thus, any patents, should they issue, that we may own or exclusively license may not provide any protection against competitors. Furthermore, an adverse decision in an interference proceeding can result in a third party receiving the patent right sought by us, which in turn could affect our ability to develop, market or otherwise commercialize our product candidates.

Furthermore, though a patent, if it were to issue, is presumed valid and enforceable, its issuance is not conclusive as to its validity or its enforceability and it may not provide us with adequate proprietary protection or competitive advantages against competitors with similar products. Even if a patent issues and is held to be valid and enforceable, competitors may be able to design around our patents, such as using pre-existing or newly developed technology. Other parties may develop and obtain patent protection for more effective technologies, designs or methods. We may not be able to prevent the unauthorized disclosure or use of our technical knowledge or trade secrets by consultants, vendors, former employees and current employees. The laws of some foreign countries do not protect our proprietary rights to the same extent as the laws of the United States, and we may encounter significant problems in protecting our proprietary rights in these countries. If these developments were to occur, they could have a material adverse effect on our sales.

Our ability to enforce our patent rights depends on our ability to detect infringement. It is difficult to detect infringers who do not advertise the components that are used in their products. Moreover, it may be difficult or impossible to obtain evidence of infringement in a competitor's or potential competitor's product. Any litigation to enforce or defend our patent rights, even if we were to prevail, could be costly and time-consuming and would divert the attention of our management and key personnel from our business operations. We may not prevail in any lawsuits that we initiate and the damages or other remedies awarded if we were to prevail may not be commercially meaningful.

In addition, proceedings to enforce or defend our patents, if and when issued, could put our patents at risk of being invalidated, held unenforceable, or interpreted narrowly. Such proceedings could also provoke third parties to assert claims against us, including that some or all of the claims in one or more of our patents are invalid or otherwise unenforceable. If any of our patents, if and when issued, covering our product candidates are invalidated or found unenforceable, our financial position and results of operations would be materially and adversely impacted. In addition, if a court found that valid, enforceable patents held by third parties covered our product candidates, our financial position and results of operations would also be materially and adversely impacted.

The degree of future protection for our proprietary rights is uncertain, and we cannot ensure that:

- any of our AV-101 or other pending patent applications, if issued, will include claims having a scope sufficient to protect AV-101 or any other products or product candidates, particularly considering that the compound patent to AV-101 has expired;
- any of our pending patent applications will issue as patents at all;
- we will be able to successfully commercialize our product candidates, if approved, before our relevant patents expire;
- we were the first to make the inventions covered by each of our patents and pending patent applications;
- we were the first to file patent applications for these inventions;
- others will not develop similar or alternative technologies that do not infringe our patents;
- others will not use pre-existing technology to effectively compete against us;
- any of our patents, if issued, will be found to ultimately be valid and enforceable;
- any patents issued to us will provide a basis for an exclusive market for our commercially viable products, will provide us with any competitive advantages or will not be challenged by third parties;
- we will develop additional proprietary technologies or product candidates that are separately patentable; or
- that our commercial activities or products will not infringe upon the patents or proprietary rights of others.

We also rely upon unpatented trade secrets, unpatented know-how and continuing technological innovation to develop and maintain our competitive position, which we seek to protect, in part, by confidentiality agreements with our employees and our collaborators and consultants. It is possible that technology relevant to our business will be independently developed by a person that is not a party to such an agreement. Furthermore, if the employees and consultants who are parties to these agreements breach or violate the terms of these agreements, we may not have adequate remedies for any such breach or violation, and we could lose our trade secrets through such breaches or violations. Further, our trade secrets could otherwise become known or be independently discovered by our competitors.

We may infringe the intellectual property rights of others, which may prevent or delay our product development efforts and stop us from commercializing or increase the costs of commercializing our product candidates, if approved.

Our success will depend in part on our ability to operate without infringing the intellectual property and proprietary rights of third parties. We cannot assure you that our business, products and methods do not or will not infringe the patents or other intellectual property rights of third parties.

The pharmaceutical industry is characterized by extensive litigation regarding patents and other intellectual property rights. Other parties may allege that our product candidates or the use of our technologies infringes patent claims or other intellectual property rights held by them or that we are employing their proprietary technology without authorization. As we continue to develop and, if approved, commercialize our current product candidates and future product candidates, competitors may claim that our technology infringes their intellectual property rights as part of business strategies designed to impede our successful commercialization. There may be third-party patents or patent applications with claims to materials, formulations, methods of manufacture or methods for treatment related to the use or manufacture of our product candidates. Because patent applications can take many years to issue, third parties may have currently pending patent applications that may later result in issued patents that our product candidates may infringe, or which such third parties claim are infringed by our technologies. The outcome of intellectual property litigation is subject to uncertainties that cannot be adequately quantified in advance. The coverage of patents is subject to interpretation by the courts, and the interpretation is not always uniform. If we are sued for patent infringement, we would need to demonstrate that our product candidates, products or methods either do not infringe the patent claims of the relevant patent or that the patent claims are invalid, and we may not be able to do this. 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 have a material adverse effect on us. In addition, we may not have sufficient resources to bring these actions to a successful conclusion.

Patent and other types of intellectual property litigation can involve complex factual and legal questions, and their outcome is uncertain. Any claim relating to intellectual property infringement that is successfully asserted against us may require us to pay substantial damages, including treble damages and attorney's fees if we are found to be willfully infringing another party's patents, for past use of the asserted intellectual property and royalties and other consideration going forward if we are forced to take a license. In addition, if any such claim was successfully asserted against us and we could not obtain such a license, we may be forced to stop or delay developing, manufacturing, selling or otherwise commercializing our product candidates.

Even if we are successful in these proceedings, we may incur substantial costs and divert management time and attention in pursuing these proceedings, which could have a material adverse effect on us. If we are unable to avoid infringing the patent rights of others, we may be required to seek a license, defend an infringement action or challenge the validity of the patents in court, or redesign our products. Patent litigation is costly and time-consuming. We may not have sufficient resources to bring these actions to a successful conclusion. In addition, intellectual property litigation or claims could force us to do one or more of the following:

- cease developing, selling or otherwise commercializing our product candidates;
- pay substantial damages for past use of the asserted intellectual property;
- obtain a license from the holder of the asserted intellectual property, which license may not be available on reasonable terms, if at all; and
- in the case of trademark claims, redesign, or rename, some or all of our product candidates to avoid infringing the intellectual property rights of third parties, which may not be possible and, even if possible, could be costly and time-consuming.

Any of these risks coming to fruition could have a material adverse effect on our business, results of operations, financial condition and prospects.

We may be subject to claims challenging the inventorship or ownership of our patents and other intellectual property.

We enter into confidentiality and intellectual property assignment agreements with our employees, consultants, outside scientific collaborators, sponsored researchers and other advisors. These agreements generally provide that inventions conceived by the party in the course of rendering services to us will be our exclusive property. However, these agreements may not be honored and may not effectively assign intellectual property rights to us. For example, even if we have a consulting agreement in place with an academic advisor pursuant to which such academic advisor is required to assign any inventions developed in connection with providing services to us, such academic advisor may not have the right to assign such inventions to us, as it may conflict with his or her obligations to assign all such intellectual property to his or her employing institution.

Litigation may be necessary to defend against these and other claims challenging inventorship or ownership. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights, such as exclusive ownership of, or right to use, valuable intellectual property. Such an outcome could have a material adverse effect on our business. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management and other employees.

Obtaining and maintaining our patent protection depends on compliance with various procedural, document submission, fee payment and other requirements imposed by governmental patent agencies, and our patent protection could be reduced or eliminated for non-compliance with these requirements.

The U.S. Patent and Trademark Office (*USPTO*) and various foreign governmental patent agencies require compliance with a number of procedural, documentary, fee payment and other provisions during the patent process. There are situations in which noncompliance can result in abandonment or lapse of a patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. In such an event, competitors might be able to enter the market earlier than would otherwise have been the case.

We may be involved in lawsuits to protect or enforce our patents or the patents of our licensors, which could be expensive, time-consuming and unsuccessful.

Even if the patent applications we own or license are issued, competitors may infringe these patents. To counter infringement or unauthorized use, we may be required to file infringement claims, which can be expensive and time-consuming. In addition, in an infringement proceeding, a court may decide that a patent of ours or our licensors is not valid, is unenforceable and/or is not infringed, or may refuse to stop the other party from using the technology at issue on the grounds that our patents do not cover the technology in question. An adverse result in any litigation or defense proceedings could put one or more of our patents at risk of being invalidated or interpreted narrowly and could put our patent applications at risk of not issuing.

Interference proceedings provoked by third parties or brought by us may be necessary to determine the priority of inventions with respect to our patents or patent applications or those of our licensors. An unfavorable outcome could require us to cease using the related technology or to attempt to license rights to it from the prevailing party. Our business could be harmed if the prevailing party does not offer us a license on commercially reasonable terms. Our defense of litigation or interference proceedings may fail and, even if successful, may result in substantial costs and distract our management and other employees. We may not be able to prevent, alone or with our licensors, misappropriation of our intellectual property rights, particularly in countries where the laws may not protect those rights as fully as in the United States.

Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of 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 our common stock.

Issued patents covering our product candidates could be found invalid or unenforceable if challenged in court.

If we or one of our licensing partners initiated legal proceedings against a third party to enforce a patent, if and when issued, covering one of our product candidates, the defendant could counterclaim that the patent covering our product candidate is invalid and/or unenforceable. In patent litigation in the United States, defendant counterclaims alleging invalidity and/or unenforceability are commonplace. Grounds for a validity challenge include alleged failures to meet any of several statutory requirements, including lack of novelty, obviousness or non-enablement. Grounds for unenforceability assertions include allegations that someone connected with prosecution of the patent withheld relevant information from the USPTO, or made a misleading statement, during prosecution. Third parties may also raise similar claims before administrative bodies in the U.S. or abroad, even outside the context of litigation. Such mechanisms include re-examination, post grant review and equivalent proceedings in foreign jurisdictions, e.g., opposition proceedings. Such proceedings could result in revocation or amendment of our patents in such a way that they no longer cover our product candidates or competitive products. The outcome following legal assertions of invalidity and unenforceability is unpredictable. With respect to validity, for example, we cannot be certain that there is no invalidating prior art, of which we and the patent examiner were unaware during prosecution. If a defendant were to prevail on a legal assertion of invalidity and/or unenforceability, we would lose at least part, and perhaps all, of the patent protection on our product candidates. Such a loss of patent protection would have a material adverse impact on our business.

We will not seek to protect our intellectual property rights in all jurisdictions throughout the world and we may not be able to adequately enforce our intellectual property rights even in the jurisdictions where we seek protection.

Filing, prosecuting and defending patents on product candidates in all countries and jurisdictions throughout the world is prohibitively expensive, and our intellectual property rights in some countries outside the United States could be less extensive than those in the United States, assuming that rights are obtained in the United States. In addition, the laws of some foreign countries do not protect intellectual property rights to the same extent as federal and state laws in the United States. Consequently, we may not be able to prevent third parties from practicing our inventions in all countries outside the United States, or from selling or importing products made using our inventions in and into the United States or other jurisdictions. The statutory deadlines for pursuing patent protection in individual foreign jurisdictions are based on the priority date of each of our patent applications. For the patent applications relating to AV-101, as well as for many of the patent families that we own or license, the relevant statutory deadlines have not yet expired. Thus, for each of the patent families that we believe provide coverage for our lead product candidates or technologies, we will need to decide whether and where to pursue protection outside the United States.

Competitors may use our technologies in jurisdictions where we do not pursue and obtain patent protection to develop their own products and further, may export otherwise infringing products to territories where we have patent protection, but enforcement is not as strong as that in the United States. These products may compete with our products and our patents or other intellectual property rights may not be effective or sufficient to prevent them from competing. Even if we pursue and obtain issued patents in particular jurisdictions, our patent claims or other intellectual property rights may not be effective or sufficient to prevent third parties from so competing.

The laws of some foreign countries do not protect intellectual property rights to the same extent as the laws of the United States. Many companies have encountered significant problems in protecting and defending intellectual property rights in certain foreign jurisdictions. The legal systems of some countries, particularly developing countries, do not favor the enforcement of patents and other intellectual property protection, especially those relating to biotechnology. This could make it difficult for us to stop the infringement of our patents, if obtained, 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. In addition, many countries limit the enforceability of patents against third parties, including government agencies or government contractors. In these countries, patents may provide limited or no benefit. Patent protection must ultimately be sought on a country-by-country basis, which is an expensive and time-consuming process with uncertain outcomes. Accordingly, we may choose not to seek patent protection in certain countries, and we will not have the benefit of patent protection in such countries.

Furthermore, proceedings to enforce our patent rights in foreign jurisdictions could result in substantial costs and divert our efforts and attention from other aspects of our business, could put our patents at risk of being invalidated or interpreted narrowly, could put our patent applications at risk of not issuing and could provoke third parties to assert claims against us. We may not prevail in any lawsuits that we initiate and the damages or other remedies awarded, if any, may not be commercially meaningful. Accordingly, our efforts to enforce our intellectual property rights around the world may be inadequate to obtain a significant commercial advantage from the intellectual property that we develop or license.

We are dependent, in part, on licensed intellectual property. If we were to lose our rights to licensed intellectual property, we may not be able to continue developing or commercializing our product candidates, if approved. If we breach any of the agreements under which we license the use, development and commercialization rights to our product candidates or technology from third parties or, in certain cases, we fail to meet certain development or payment deadlines, we could lose license rights that are important to our business.

We are a party to a number of license agreements under which we are granted rights to intellectual property that are or could become important to our business, and we expect that we may need to enter into additional license agreements in the future. Our existing license agreements impose, and we expect that future license agreements will impose on us, various development, regulatory and/or commercial diligence obligations, payment of fees, milestones and/or royalties and other obligations. If we fail to comply with our obligations under these agreements, or we are subject to a bankruptcy, the licensor may have the right to terminate the license, in which event we would not be able to develop or market products, which could be covered by the license. Our business could suffer, for example, if any current or future licenses terminate, if the licensors fail to abide by the terms of the license, if the licensed patents or other rights are found to be invalid or unenforceable, or if we are unable to enter into necessary licenses on acceptable terms. See “*Business—Intellectual Property*” herein for a description of our license agreements, which includes a description of the termination provisions of these agreements.

As we have done previously, we may need to obtain licenses from third parties to advance our research or allow commercialization of our product candidates, and we cannot provide any assurances that third-party patents do not exist that might be enforced against our current product candidates or future products in the absence of such a license. We may fail to obtain any of these licenses on commercially reasonable terms, if at all. Even if we are able to obtain a license, it may be non-exclusive, thereby giving our competitors access to the same technologies licensed to us. In that event, we may be required to expend significant time and resources to develop or license replacement technology. If we are unable to do so, we may be unable to develop or commercialize the affected product candidates, which could materially harm our business and the third parties owning such intellectual property rights could seek either an injunction prohibiting our sales, or, with respect to our sales, an obligation on our part to pay royalties and/or other forms of compensation.

Licensing of intellectual property is of critical importance to our business and involves complex legal, business and scientific issues. Disputes may arise between us and our licensors regarding intellectual property subject to a license agreement, including:

- the scope of rights granted under the license agreement and other interpretation-related issues;
- whether and the extent to which our technology and processes infringe on intellectual property of the licensor that is not subject to the licensing agreement;
- our right to sublicense patent and other rights to third parties under collaborative development relationships;
- our diligence obligations with respect to the use of the licensed technology in relation to our development and commercialization of our product candidates, and what activities satisfy those diligence obligations; and
- the ownership of inventions and know-how resulting from the joint creation or use of intellectual property by our licensors and us and our partners.

If disputes over intellectual property that we have licensed prevent or impair our ability to maintain our current licensing arrangements on acceptable terms, we may be unable to successfully develop and commercialize the affected product candidates.

We have entered into several licenses to support our various stem cell technology-related programs. We may enter into additional license(s) to third-party intellectual property that are necessary or useful to our business. Our current licenses and any future licenses that we may enter into impose various royalty payments, milestone, and other obligations on us. For example, the licensor may retain control over patent prosecution and maintenance under a license agreement, in which case, we may not be able to adequately influence patent prosecution or prevent inadvertent lapses of coverage due to failure to pay maintenance fees. If we fail to comply with any of our obligations under a current or future license agreement, our licensor(s) may allege that we have breached our license agreement and may accordingly seek to terminate our license with them. In addition, future licensor(s) may decide to terminate our license at will. Termination of any of our current or future licenses could result in our loss of the right to use the licensed intellectual property, which could materially adversely affect our ability to develop and commercialize a product candidate or product, if approved, as well as harm our competitive business position and our business prospects.

In addition, if our licensors fail to abide by the terms of the license, if the licensors fail to prevent infringement by third parties, if the licensed patents or other rights are found to be invalid or unenforceable, or if we are unable to enter into necessary licenses on acceptable terms our business could suffer.

Some intellectual property which we have licensed may have been discovered through government funded programs and thus may be subject to federal regulations such as “march-in” rights, certain reporting requirements, and a preference for U.S. industry. Compliance with such regulations may limit our exclusive rights, subject us to expenditure of resources with respect to reporting requirements, and limit our ability to contract with non-U.S. manufacturers.

Some of the intellectual property rights we have licensed or license in the future may have been generated through the use of U.S. government funding and may therefore be subject to certain federal regulations. As a result, the U.S. government may have certain rights to intellectual property embodied in our current or future product candidates pursuant to the Bayh-Dole Act of 1980 (*Bayh-Dole Act*). These U.S. government rights in certain inventions developed under a government-funded program include a non-exclusive, non-transferable, irrevocable worldwide license to use inventions for any governmental purpose. In addition, the U.S. government has the right to require us to grant exclusive, partially exclusive, or non-exclusive licenses to any of these inventions to a third party if it determines that: (i) adequate steps have not been taken to commercialize the invention; (ii) government action is necessary to meet public health or safety needs; or (iii) government action is necessary to meet requirements for public use under federal regulations (also referred to as “march-in rights”). The U.S. government also has the right to take title to these inventions if we fail, or the applicable licensor fails, to disclose the invention to the government and fail to file an application to register the intellectual property within specified time limits. In addition, the U.S. government may acquire title to these inventions in any country in which a patent application is not filed within specified time limits. Intellectual property generated under a government funded program is also subject to certain reporting requirements, compliance with which may require us, or the applicable licensor, to expend substantial resources. In addition, the U.S. government requires that any products embodying the subject invention or produced through the use of the subject invention be manufactured substantially in the U.S. The manufacturing preference requirement can be waived if the owner of the intellectual property can show that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the U.S. or that under the circumstances domestic manufacture is not commercially feasible. This preference for U.S. manufacturers may limit our ability to contract with non-U.S. product manufacturers for products covered by such intellectual property.

In the event we apply for additional U.S. government funding, and we discover compounds or drug candidates as a result of such funding, intellectual property rights to such discoveries may be subject to the applicable provisions of the Bayh-Dole Act.

If we do not obtain additional protection under the Hatch-Waxman Amendments and similar foreign legislation by extending the patent terms and obtaining data exclusivity for our product candidates, our business may be materially harmed.

Depending upon the timing, duration and specifics of FDA marketing approval of our product candidates, one or more of the U.S. patents we own or license may be eligible for limited patent term restoration under the Drug Price Competition and Patent Term Restoration Act of 1984, referred to as the Hatch-Waxman Amendments. The Hatch-Waxman Amendments permit a patent restoration term of up to five years as compensation for patent term lost during product development and the FDA regulatory review process. However, we may not be granted an extension because of, for example, failing to apply within applicable deadlines, failing to apply prior to expiration of relevant patents or otherwise failing to satisfy applicable requirements. For example, we may not be granted an extension if the active ingredient of AV-101 is used in another drug company's product candidate and that product candidate is the first to obtain FDA approval. Moreover, the applicable time period or the scope of patent protection afforded could be less than we request. If we are unable to obtain patent term extension or restoration or the term of any such extension is less than we request, our competitors may obtain approval of competing products following our patent expiration, and our ability to generate revenues could be materially adversely affected.

Changes in U.S. patent law could diminish the value of patents in general, thereby impairing our ability to protect our products.

As is the case with other biotechnology companies, our success is heavily dependent on intellectual property, particularly patents. Obtaining and enforcing patents in the biotechnology industry involve both technological and legal complexity, and is therefore costly, time-consuming and inherently uncertain. In addition, the United States has recently enacted and is currently implementing wide-ranging patent reform legislation: the Leahy-Smith America Invents Act, referred to as the America Invents Act. The America Invents Act includes a number of significant changes to U.S. patent law. These include provisions that affect the way patent applications will be prosecuted and may also affect patent litigation. It is not yet clear what, if any, impact the America Invents Act will have on the operation of our business. However, the America Invents Act and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of any patents that may issue from our patent applications, all of which could have a material adverse effect on our business and financial condition.

In addition, recent U.S. Supreme Court rulings have narrowed the scope of patent protection available in certain circumstances and weakened the rights of patent owners in certain situations. The full impact of these decisions is not yet known. For example, on March 20, 2012 in *Mayo Collaborative Services, DBA Mayo Medical Laboratories, et al. v. Prometheus Laboratories, Inc.*, the Court held that several claims drawn to measuring drug metabolite levels from patient samples and correlating them to drug doses were not patentable subject matter. The decision appears to impact diagnostics patents that merely apply a law of nature via a series of routine steps and it has created uncertainty around the ability to obtain patent protection for certain inventions. Additionally, on June 13, 2013 in *Association for Molecular Pathology v. Myriad Genetics, Inc.*, the Court held that claims to isolated genomic DNA are not patentable, but claims to complementary DNA molecules are patent eligible because they are not a natural product. The effect of the decision on patents for other isolated natural products is uncertain. Additionally, on March 4, 2014, the USPTO issued a memorandum to patent examiners providing guidance for examining claims that recite laws of nature, natural phenomena or natural products under the *Myriad* and *Prometheus* decisions. This guidance did not limit the application of *Myriad* to DNA but, rather, applied the decision to other natural products. Further, in 2015, in *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, the Court of Appeals for the Federal Circuit held that methods for detecting fetal genetic defects were not patent eligible subject matter.

In addition to increasing uncertainty with regard to our ability to obtain future patents, this combination of events has created uncertainty with respect to the value of patents, once obtained. Depending on these and other decisions by the U.S. Congress, the federal courts and the USPTO, the laws and regulations governing patents could change in unpredictable ways that would weaken our ability to obtain new patents or to enforce any patents that may issue in the future.

We may be subject to damages resulting from claims that we or our employees have wrongfully used or disclosed alleged trade secrets of their former employers.

Certain of our current employees have been, and certain of our future employees may have been, previously employed at other biotechnology or pharmaceutical companies, including our competitors or potential competitors. We also engage advisors and consultants who are concurrently employed at universities or who perform services for other entities.

Although we are not aware of any claims currently pending or threatened against us, we may be subject to claims that we or our employees, advisors or consultants have inadvertently or otherwise used or disclosed intellectual property, including trade secrets or other proprietary information, of a former employer or other third party. We have and may in the future also be subject to claims that an employee, advisor or consultant performed work for us that conflicts with that person's obligations to a third party, such as an employer, and thus, that the third party has an ownership interest in the intellectual property arising out of work performed for us. Litigation may be necessary to defend against these claims. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to management. If we fail in defending such claims, in addition to paying monetary claims, we may lose valuable intellectual property rights or personnel. A loss of key personnel or their work product could hamper or prevent our ability to commercialize our product candidates, which would materially adversely affect our commercial development efforts.

Numerous factors may limit any potential competitive advantage provided by our intellectual property rights.

The degree of future protection afforded by our intellectual property rights is uncertain because intellectual property rights have limitations, and may not adequately protect our business, provide a barrier to entry against our competitors or potential competitors, or permit us to maintain our competitive advantage. Moreover, if a third party has intellectual property rights that cover the practice of our technology, we may not be able to fully exercise or extract value from our intellectual property rights. The following examples are illustrative:

- others may be able to develop and/or practice technology that is similar to our technology or aspects of our technology but that is not covered by the claims of patents, should such patents issue from our patent applications;
- we might not have been the first to make the inventions covered by a pending patent application that we own;
- we might not have been the first to file patent applications covering an invention;
- others may independently develop similar or alternative technologies without infringing our intellectual property rights;
- pending patent applications that we own or license may not lead to issued patents;
- patents, if issued, that we own or license may not provide us with any competitive advantages, or may be held invalid or unenforceable, as a result of legal challenges by our competitors;
- third parties may compete with us in jurisdictions where we do not pursue and obtain patent protection;
- we may not be able to obtain and/or maintain necessary or useful licenses on reasonable terms or at all; and
- the patents of others may have an adverse effect on our business.

Should any of these events occur, they could significantly harm our business and results of operations.

If, instead of identifying drug rescue candidates based on information available to us in the public domain, we seek to in-license drug rescue candidates from biotechnology, medicinal chemistry and pharmaceutical companies, academic, governmental and nonprofit research institutions, including the NIH, or other third-parties, there can be no assurances that we will obtain material ownership or economic participation rights over intellectual property we may derive from such licenses or similar rights to the drug rescue NCEs we may produce and develop. If we are unable to obtain ownership or substantial economic participation rights over intellectual property related to drug rescue NCEs we produce and develop, our business may be adversely affected.

Risks Related to our Securities

The limited public market for our securities may adversely affect an investor's ability to liquidate an investment in the Company.

Our common stock is currently quoted on The NASDAQ Capital Market, however, there is presently limited trading activity. We can give no assurance that an active market will develop, or if developed, that it will be sustained. If an investor acquires shares of our common stock, the investor may not be able to liquidate the shares should there be a need or desire to do so.

Market volatility may affect our stock price and the value of your investment.

The market price for our common stock, similar to other biopharmaceutical companies, is likely to be volatile. The market price of our common stock may fluctuate significantly in response to a number of factors, most of which we cannot control, including, among others:

- plans for, progress of or results from non-clinical studies and clinical trials of our product candidates;
- the failure of the FDA to approve our product candidates;
- announcements of new products, technologies, commercial relationships, acquisitions or other events by us or our competitors;
- the success or failure of other CNS therapies;
- regulatory or legal developments in the United States and other countries;
- failure of our product candidates, if approved, to achieve commercial success;
- fluctuations in stock market prices and trading volumes of similar companies;
- general market conditions and overall fluctuations in U.S. equity markets;
- variations in our quarterly operating results;
- changes in our financial guidance or securities analysts' estimates of our financial performance;
- changes in accounting principles;
- our ability to raise additional capital and the terms on which we can raise it;
- sales of large blocks of our common stock, including sales by our executive officers, directors and significant stockholders;
- additions or departures of key personnel;
- discussion of us or our stock price by the press and by online investor communities; and
- other risks and uncertainties described in these risk factors.

Future sales and issuances of our common stock may cause our stock price to decline.

Sales or issuances of a substantial number of shares of our common stock in the public market, or the perception that these sales or issuances are occurring or might occur, could significantly reduce the market price of our common stock and impair our ability to raise adequate capital through the sale of additional equity securities.

The stock market in general, and biotechnology-based companies like ours in particular, has frequently experienced volatility in the market prices for securities that often has been unrelated to the operating performance of the underlying companies. These broad market and industry fluctuations may adversely affect the market price of our common stock, regardless of our operating performance. In certain recent situations in which the market price of a stock has been volatile, holders of that stock have instituted securities class action litigation against such company that issued the stock. If any of our stockholders were to bring a lawsuit against us, the defense and disposition of the lawsuit could be costly and divert the time and attention of our management and harm our operating results. Additionally, if the trading volume of our common stock remains low and limited there will be an increased level of volatility and you may not be able to generate a return on your investment.

A significant portion of our total outstanding shares are restricted from immediate resale but may be sold into the market in the near future. Future sales of shares by existing stockholders could cause our stock price to decline, even if our business is doing well.

Sales of a substantial number of shares of our common stock in the public market could occur at any time. These sales, or the perception in the market that the holders of a large number of shares intend to sell shares, could reduce the market price of our common stock. Historically, there has been a highly limited public market for shares of our common stock. Future sales and issuances of a substantial number of shares of our common stock in the public market, including shares issued upon the conversion of our Series A Preferred, Series B Preferred or Series C Preferred, and the exercise of outstanding options and warrants for common stock which are issuable upon exercise, in the public market, or the perception that these sales and issuances are occurring or might occur, could significantly reduce the market price for our common stock and impair our ability to raise adequate capital through the sale of equity securities.

Our principal institutional stockholders may continue to have substantial control over us and could limit your ability to influence the outcome of key transactions, including changes in control.

Certain of our current institutional stockholders own a substantial portion of our outstanding capital stock, including our common stock, Series A Preferred, Series B Preferred, and Series C Preferred, all of which preferred stock is convertible into a substantial number of shares of common stock. Accordingly, institutional stockholders may exert significant influence over us and over the outcome of any corporate actions requiring approval of holders of our common stock, including the election of directors and amendments to our organizational documents, such as increases in our authorized shares of common stock, any merger, consolidation or sale of all or substantially all of our assets or any other significant corporate transactions. These stockholders may also delay or prevent a change of control of us, even if such a change of control would benefit our other stockholders. The significant concentration of stock ownership may adversely affect the trading price of our common stock due to investors' perception that conflicts of interest may exist or arise. Furthermore, the interests of our principal institutional stockholders may not always coincide with your interests or the interests of other stockholders may act in a manner that advances its best interests and not necessarily those of other stockholders, including seeking a premium value for its common stock, which might affect the prevailing market price for our common stock.

If equity research analysts do not publish research or reports about our business or if they issue unfavorable commentary or downgrade our common stock, the price of our common stock could decline.

The trading market for our common stock relies in part on the research and reports that equity research analysts publish about us and our business. We do not control these analysts. The price of our common stock could decline if one or more equity research analysts downgrade our common stock or if analysts issue other unfavorable commentary or cease publishing reports about us or our business.

There may be additional issuances of shares of preferred stock in the future.

Our Articles of Incorporation (the *Articles*) permit us to issue up to 10.0 million shares of preferred stock. Our Board of Directors has authorized the issuance of (i) 500,000 shares of Series A Preferred, all of which shares are currently issued and outstanding; (ii) 4.0 million shares of Series B 10% Convertible Preferred stock, of which approximately 1.2 million shares are issued and outstanding as of the date of this Report; and (iii) 3.0 million shares of Series C Convertible Preferred Stock, of which approximately 2.3 million shares are issued and outstanding as of the date of this Report. Our Board of Directors could authorize the issuance of additional series of preferred stock in the future and such preferred stock could grant holders preferred rights to our assets upon liquidation, the right to receive dividends before dividends would be declared to holders of our common stock, and the right to the redemption of such shares, possibly together with a premium, prior to the redemption of the common stock. In the event and to the extent that we do issue additional preferred stock in the future, the rights of holders of our common stock could be impaired thereby, including without limitation, with respect to liquidation.

We do not intend to pay dividends on our common stock and, consequently, our stockholders' ability to achieve a return on their investment will depend on appreciation in the price of our common stock.

We have never declared or paid any cash dividend on our common stock and do not currently intend to do so in the foreseeable future. We currently anticipate that we will retain future earnings for the development, operation and expansion of our business and do not anticipate declaring or paying any cash dividends in the foreseeable future. Therefore, the success of an investment in shares of our common stock will depend upon any future appreciation in their value. There is no guarantee that shares of our common stock will appreciate in value or even maintain the price at which our stockholders purchased them.

We incur significant costs to ensure compliance with corporate governance, federal securities law and accounting requirements.

Since becoming a public company by means of a reverse merger in 2011, we have been subject to the reporting requirements of the Securities Exchange Act of 1934, as amended (*Exchange Act*), which requires that we file annual, quarterly and current reports with respect to our business and financial condition, and the rules and regulations implemented by the SEC, the Sarbanes-Oxley Act of 2002, the Dodd-Frank Act, and the Public Company Accounting Oversight Board, each of which imposes additional reporting and other obligations on public companies. We have incurred and will continue to incur significant costs to comply with these public company reporting requirements, including accounting and related audit costs, legal costs to comply with corporate governance requirements and other costs of operating as a public company. These legal and financial compliance costs will continue to require us to divert a significant amount of money that we could otherwise use to achieve our research and development and other strategic objectives.

The filing and internal control reporting requirements imposed by federal securities laws, rules and regulations on companies that are not “smaller reporting companies” under federal securities laws are rigorous and, once we are no longer a smaller reporting company, we may not be able to meet them, resulting in a possible decline in the price of our common stock and our inability to obtain future financing. Certain of these requirements may require us to carry out activities we have not done previously and complying with such requirements may divert management’s attention from other business concerns, which could have a material adverse effect on our business, results of operations, financial condition and cash flows. Any failure to adequately comply with applicable federal securities laws, rules or regulations could subject us to fines or regulatory actions, which may materially adversely affect our business, results of operations and financial condition.

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

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

Grant of Warrants to Professional Services Providers

On September 26, 2016, we granted warrants to purchase an aggregate of 75,000 shares of our unregistered common stock at an exercise price of \$6.00 per share and 25,000 shares of our common stock at an exercise price to certain consultants who are accredited investors. On October 11, 2016, we granted warrants to purchase an aggregate of 6,000 shares of our common stock at an exercise price of \$6.00 per share to additional consultants who are accredited investors. We will receive all proceeds from the exercise of these warrants; however, there can be no assurance that we will receive any proceeds therefrom. In all instances, the warrants were issued in a private placement transaction exempt from registration under the Securities Act, in reliance on Section 4(2) thereof and Rule 506 of Regulation D thereunder.

Issuance of Common Stock to Professional Services Providers

On September 26, 2016, we issued an aggregate of 170,000 shares of our unregistered common stock for services provided and to be provided by certain legal, investor relations, financial advisory and corporate development professionals who are also accredited investors. On November 1, 2016, we issued 25,000 shares of our unregistered common stock to a corporate investor relations provider for professional services to be provided. In all instances, the shares were issued in a private placement transaction exempt from registration under the Securities Act, in reliance on Section 4(2) thereof and Rule 506 of Regulation D thereunder.

Warrants Exchanged for Common Stock

Between April 29, 2016 and August 25, 2016, we entered into warrant exchange agreements with certain warrant holders pursuant to which the warrant holders exchanged outstanding warrants to purchase an aggregate of 61,649 shares of our common stock for an aggregate of 46,238 shares of our unregistered common stock. On October 25, 2016, we entered into a warrant exchange agreement with an accredited investor holding outstanding warrants to purchase an aggregate of 113,944 shares of our common stock pursuant to which the holder exchanged such warrants in exchange for an aggregate of 85,458 shares of our unregistered common stock. In all instances, the common stock was issued in private placement transactions exempt from registration under the Securities Act, in reliance on Section 3(a)(9) and/or 4(2) thereof.

Common Stock Issued in Payment of Dividends

On August 17, 2016, we issued 26,258 unregistered shares of our common stock in payment of \$85,300 in accrued dividends on 87,500 shares of our Series B Preferred stock voluntarily converted by an institutional investor. The common stock was issued in private placement transactions exempt from registration under the Securities Act, in reliance on Section 3(a)(9) and/or 4(2) thereof.

Item 3. Defaults Upon Senior Securities

None.

Item 6. Exhibits

Exhibit Number	Description
10.1	Second Amendment to Lease between Bayside Area Development, LLC and the Company, effective November 10, 2016, filed herewith.
10.2	Indemnification Agreement effective November 10, 2016 between the Company and Mark A. Smith, filed herewith.
31.1	Certification of the Principal Executive Officer required by Rule 13a-14(a) under the Securities Exchange Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of the Principal Financial Officer required by Rule 13a-14(a) under the Securities Exchange Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32	Certification of the Principal Executive and Financial Officers required by Rule 13a-14(b) and Section 1350 of Chapter 63 of Title 18 of the United States Code, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema
101.CAL	XBRL Taxonomy Extension Calculation Linkbase
101.DEF	XBRL Taxonomy Extension Definition Linkbase
101.LAB	XBRL Taxonomy Extension Label Linkbase
101.PRE	XBRL Taxonomy Extension Presentation Linkbase

SIGNATURES

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

VISTAGEN THERAPEUTICS, INC.

/s/ Shawn K. Singh

Shawn K. Singh

Chief Executive Officer (Principal Executive Officer)

/s/ Jerrold D. Dotson

Jerrold D. Dotson

Chief Financial Officer (Principal Financial and Accounting Officer)

Dated: November 14, 2016

This SECOND AMENDMENT TO LEASE ("**Second Amendment**") is made and entered into as of November 10, 2016, by and between **BAYSIDE AREA DEVELOPMENT, LLC**, a Delaware limited liability company ("**Landlord**"), and **VISTAGEN THERAPEUTICS, INC.**, a Nevada corporation ("**Tenant**").

RECITALS :

A. Landlord and Tenant (as successor-in-interest to VistaGen Therapeutics, Inc., a California corporation) entered into that certain Lease, dated as of April 24, 2013 (the "**Original Lease**"), as amended by that certain First Amendment to Lease dated September 28, 2013 (the "**First Amendment**"), pursuant to which Tenant currently leases approximately 10,909 rentable square feet of space with a street address of 343 Allerton Avenue (as set forth in Exhibit A to the Lease, the "**Premises**"), in the building located at 333-353 Allerton Avenue, South San Francisco, CA (the "**Building**"). The Original Lease and the First Amendment are collectively, the "**Lease**."

B. The parties desire to amend the Lease on the terms and conditions set forth in this Second Amendment.

AGREEMENT :

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Terms.** All capitalized terms when used herein shall have the same respective meanings as are given such terms in the Lease unless expressly provided otherwise in this Second Amendment.

2. **Condition of the Premises.** Landlord and Tenant acknowledge that Tenant has been occupying the Premises pursuant to the Lease, and therefore Tenant continues to accept the Premises in its presently existing, "as is" condition. Except as expressly set forth in the Tenant Work Letter attached to this Second Amendment as **Exhibit A** (the "**Tenant Work Letter**"), Landlord shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Premises.

3. **Lease Term.**

3.1 **Extended Lease Term.** Pursuant to the Lease, the Lease Term is scheduled to expire on July 31, 2017. Landlord and Tenant hereby agree to extend the Lease Term for a period of five (5) years, from August 1, 2017, through July 31, 2022 (the "**Extended Term**"), on the terms and conditions set forth in the Lease, as hereby amended by this Second Amendment, unless sooner terminated as provided in the Lease.

3.2 **Option to Extend Lease Term.** Landlord and Tenant acknowledge and agree that the Extended Term provided herein shall not be deemed to represent Tenant's option to extend the Lease Term as provided in **Section 2.2** of the Original Lease, and accordingly Tenant shall continue to have one (1) option to extend the Lease Term in accordance with, and pursuant to the terms of, **Section 2.2** of the Original Lease; provided that effective as of the date of this Second Amendment such option to extend the Lease Term shall be for five (5) years (as opposed to three (3) years as presently set forth in the Lease).

4. **Rent.**

4.1 **Base Rent.** Prior to August 1, 2017, Tenant shall continue to pay monthly installments of Base Rent for the Premises in accordance with the terms of the Lease. During the Extended Term, Tenant shall pay monthly installments of Base Rent for the Premises as follows:

Period During Extended Term	Annual Base Rent	Monthly Installment of Base Rent	Monthly Rental Rate per Square Foot
August 1, 2017 – July 31, 2018	\$589,086.00	\$49,090.50	\$4.50
August 1, 2018 – July 31, 2019	\$609,704.01	\$50,808.67	\$4.66
August 1, 2019 – July 31, 2020	\$631,043.65	\$52,586.97	\$4.82
August 1, 2020 – July 31, 2021	\$653,130.18	\$54,427.51	\$4.99
August 1, 2021 – July 31, 2022	\$675,989.73	\$56,332.48	\$5.16

4.2 **Abated Base Rent.** Provided that Tenant is not then in default of the Lease (as hereby amended), then during the period commencing on August 1, 2017 and ending on September 30, 2017 (the "**Rent Abatement Period**"), Tenant shall not be obligated to pay any Base Rent otherwise attributable to the Premises during such Rent Abatement Period (the "**Rent Abatement**"). Landlord and Tenant acknowledge that the aggregate amount of the Rent Abatement equals \$98,181.00 (*i.e.*, \$49,090.50 per month). Tenant acknowledges and agrees that the foregoing Rent Abatement has been granted to Tenant as additional consideration for entering into this Second Amendment, and for agreeing to pay the Rent and perform the terms and conditions otherwise required under the Lease (as hereby amended). If Tenant shall be in default under the Lease (as hereby amended) and shall fail to cure such default within the notice and cure period, if any, permitted for cure pursuant to the Lease (as hereby amended), or if the Lease (as hereby amended) is terminated for any reason, other than as the result of casualty or condemnation, then the dollar amount of the unapplied portion of the Rent Abatement as of such default or termination shall be converted to a credit to be applied to the Base Rent applicable at the end of the Extended Term and Tenant shall immediately be obligated to begin paying Base Rent for the Premises in full.

4.3 **Direct Expenses.** Prior to and continuing throughout the Extended Term, Tenant shall continue to pay Tenant's Share of all Direct Expenses in accordance with the terms of the Lease.

5. **Broker.** Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Second Amendment other than CBRE, Inc. (the "**Broker**"), and that they know of no other real estate broker or agent who is entitled to a commission in connection with this Second Amendment. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent, other than the Broker, occurring by, through, or under the indemnifying party. The terms of this Section 5 shall survive the expiration or earlier termination of the term of the Lease, as hereby amended.

6. **California Accessibility Disclosure**. For purposes of Section 1938 of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges that the Common Areas and the Premises have not undergone inspection by a Certified Access Specialist (CASP).

7. **No Further Modification**. Except as specifically set forth in this Second Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, this Second Amendment has been executed as of the day and year first above written.

"LANDLORD"

BAYSIDE AREA DEVELOPMENT, LLC,
a Delaware limited liability company

By: /s/ Jon M Bergschneider
Jon M. Bergschneider
Executive Vice President

"TENANT"

VISTAGEN THERAPEUTICS, INC.,
a Nevada corporation

By: /s/ Shawn K. Singh
Shawn K. Singh
Chief Executive Officer

EXHIBIT A

TENANT WORK LETTER

Landlord and Tenant acknowledge that Tenant has been occupying the Premises pursuant to the Lease. Except as specifically set forth herein, Landlord shall not be obligated to construct or install any improvements or facilities of any kind in the Premises, and Tenant shall continue to accept the Premises in its currently-existing, "as-is" condition. Notwithstanding the foregoing, from and after January 1, 2017, Tenant shall be entitled to a one-time tenant improvement allowance (the "**Tenant Improvement Allowance**") equal to \$163,635.00 (*i.e.*, approximately \$15.00 for each of the 10,909 rentable square feet of the Premises) for the costs relating to the design and construction of Tenant's improvements which are permanently affixed to the Premises (the "**Tenant Improvements**"). Landlord hereby acknowledges that up to \$10,000.00 of the Tenant Improvement Allowance may be utilized for new signage for the Premises as part of the Tenant Improvements, which new signage shall be approved by Landlord pursuant to the terms of the Lease. A contractor shall be retained by Tenant to construct the Tenant Improvements, which contractor shall be selected by Tenant and reasonably approved by Landlord and in connection therewith, Landlord hereby approves Cody Builders as a contractor to be retained by Tenant to construct the Tenant Improvements. The Tenant Improvement Allowance will be disbursed in accordance with Landlord's standard disbursement procedures, including, without limitation, following Landlord's receipt of (i) evidence (*i.e.*, invoices or other documentation reasonably satisfactory to Landlord) of payment for the Tenant Improvements, and (ii) fully executed, unconditional lien releases from all contractors, subcontractors, laborers, materialmen, and suppliers used by Tenant in connection with the Tenant Improvements. In connection with the Tenant Improvements, Landlord shall retain Project Management Advisors, Inc. ("**PMA**") as a third party project manager for construction oversight of the Tenant Improvements on behalf of Landlord, and Tenant shall pay a fee to Landlord with respect to the PMA services to be deducted from the Tenant Improvement Allowance not to exceed \$5,000.00. The Tenant Improvements shall be constructed in accordance with the terms and conditions of Article 8 of the Original Lease. In no event shall Landlord be obligated to disburse any portion of the Tenant Improvement Allowance subsequent to August 1, 2018, nor shall Landlord be obligated to disburse any amount in excess of the Tenant Improvement Allowance in connection with the construction of the Tenant Improvements. No portion of the Tenant Improvement Allowance, if any, remaining after the construction of the Tenant Improvements shall be available for use by Tenant.

VISTAGEN THERAPEUTICS, INC. INDEMNIFICATION AGREEMENT

THIS AGREEMENT is entered into, effective as of November 10, 2016 between VistaGen Therapeutics, Inc., a Nevada corporation (the "Company"), and Mark A. Smith, M.D., Ph.D. ("Indemnitee").

WHEREAS, it is essential to the Company to retain and attract as directors and officers the most capable persons available;

WHEREAS, Indemnitee is an officer of the Company;

WHEREAS, both the Company and Indemnitee recognize the increased risk of litigation and other claims currently being asserted against directors and officers of corporations; and

WHEREAS, in recognition of Indemnitee's need for substantial protection against personal liability in order to enhance Indemnitee's continued and effective service to the Company, and in order to induce Indemnitee to provide services to the Company as an officer, the Company wishes to provide in this Agreement for the indemnification of and the advancing of expenses to Indemnitee to the fullest extent (whether partial or complete) permitted by law and as set forth in this Agreement, and, to the extent insurance is maintained, for the coverage of Indemnitee under the Company's directors' and officers' liability insurance policies.

NOW, THEREFORE, in consideration of the above premises and of Indemnitee's continuing to serve the Company directly or, at its request, with another enterprise, and intending to be legally bound hereby, the parties agree as follows:

1. Certain Definitions:

(a) Board: the Board of Directors of the Company.

(b) Change in Control: shall be deemed to have occurred if (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended), other than a trustee or other fiduciary holding securities under an employee benefit plan of the Company or a corporation owned directly or indirectly by the shareholders of the Company in substantially the same proportions as their ownership of stock of the Company, is or becomes the "Beneficial Owner" (as defined in Rule 13d-3 under said Act), directly or indirectly, of securities of the Company representing 20% or more of the total voting power represented by the Company's then outstanding Voting Securities, or (ii) during any period of two consecutive years, individuals who at the beginning of such period constitute the Board and any new director whose election by the Board or nomination for election by the Company's shareholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof, or (iii) the shareholders of the Company approve a merger or consolidation of the Company with any other corporation, other than a merger or consolidation that would result in the Voting Securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into Voting Securities of the surviving entity) at least 80% of the total voting power represented by the Voting Securities of the Company or such surviving entity outstanding immediately after such merger or consolidation, or the shareholders of the Company approve a plan of complete liquidation of the Company or an agreement for the sale or disposition by the Company (in one transaction or a series of transactions) of all or substantially all of the Company's assets.

(c) Expenses: any expense, liability, or loss, including attorneys' fees, judgments, fines, ERISA excise taxes and penalties, amounts paid or to be paid in settlement, any interest, assessments, or other charges imposed thereon, and any federal, state, local, or foreign taxes imposed as a result of the actual or deemed receipt of any payments under this Agreement, paid or incurred in connection with investigating, defending, being a witness in, or participating in (including on appeal), or preparing for any of the foregoing in, any Proceeding relating to any Indemnifiable Event.

(d) Indemnifiable Event: any event or occurrence that takes place either prior to or after the execution of this Agreement, related to the fact that Indemnitee is or was an officer of the Company, or while an officer is or was serving at the request of the Company as a director, officer, employee, trustee, agent, or fiduciary of another foreign or domestic corporation, partnership, joint venture, employee benefit plan, trust, or other enterprise, or was a director, officer, employee, or agent of a foreign or domestic corporation that was a predecessor corporation of the Company or of another enterprise at the request of such predecessor corporation, or related to anything done or not done by Indemnitee in any such capacity, whether or not the basis of the Proceeding is alleged action in an official capacity as a director, officer, employee, or agent or in any other capacity while serving as a director, officer, employee, or agent of the Company, as described above.

(e) Independent Counsel: the person or body appointed in connection with Section 3.

(f) Proceeding: any threatened, pending, or completed action, suit, or proceeding (including an action by or in the right of the Company), or any inquiry, hearing, or investigation, whether conducted by the Company or any other party, that Indemnitee in good faith believes might lead to the institution of any such action, suit, or proceeding, whether civil, criminal, administrative, investigative, or other.

(g) Reviewing Party: the person or body appointed in accordance with Section 3.

(h) Voting Securities: any securities of the Company that vote generally in the election of directors.

2. Agreement to Indemnify.

(a) General Agreement. In the event Indemnitee was, is, or becomes a party to or witness or other participant in, or is threatened to be made a party to or witness or other participant in, a Proceeding by reason of (or arising in part out of) an Indemnifiable Event, the Company shall indemnify Indemnitee from and against any and all Expenses to the fullest extent permitted by law, as the same exists or may hereafter be amended or interpreted (but in the case of any such amendment or interpretation, only to the extent that such amendment or interpretation permits the Company to provide broader indemnification rights than were permitted prior thereto). The parties hereto intend that this Agreement shall provide for indemnification in excess of that expressly permitted by statute, including, without limitation, any indemnification provided by the Company's Articles of Incorporation, its Bylaws, vote of its shareholders or disinterested directors, or applicable law.

(b) Initiation of Proceeding. Notwithstanding anything in this Agreement to the contrary, Indemnitee shall not be entitled to indemnification pursuant to this Agreement in connection with any Proceeding initiated by Indemnitee against the Company or any director of the Company unless (i) the Company has joined in or the Board has consented to the initiation of such Proceeding; (ii) the Proceeding is one to enforce indemnification rights under Section 5; or (iii) the Proceeding is instituted after a Change in Control (other than a Change in Control approved by a majority of the directors on the Board who were directors immediately prior to such Change in Control) and Independent Counsel has approved its initiation.

(c) Expense Advances. If so requested by Indemnitee, the Company shall advance (within ten business days of such request) any and all Expenses to Indemnitee (an "Expense Advance"); provided that, if and to the extent that the Reviewing Party determines that Indemnitee would not be permitted to be so indemnified under applicable law, the Company shall be entitled to be reimbursed by Indemnitee (who hereby agrees to reimburse the Company) for all such amounts theretofore paid. If Indemnitee has commenced or commences legal proceedings in a court of competent jurisdiction to secure a determination that Indemnitee should be indemnified under applicable law, as provided in Section 4, any determination made by the Reviewing Party that Indemnitee would not be permitted to be indemnified under applicable law shall not be binding and Indemnitee shall not be required to reimburse the Company for any Expense Advance until a final judicial determination is made with respect thereto (as to which all rights of appeal therefrom have been exhausted or have lapsed). Indemnitee's obligation to reimburse the Company for Expense Advances shall be unsecured and no interest shall be charged thereon.

(d) Mandatory Indemnification. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee has been successful on the merits in defense of any Proceeding relating in whole or in part to an Indemnifiable Event or in defense of any issue or matter therein, Indemnitee shall be indemnified against all Expenses incurred in connection therewith.

(e) Partial Indemnification. If indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of Expenses, but not, however, for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

(f) Prohibited Indemnification. No indemnification pursuant to this Agreement shall be paid by the Company on account of any Proceeding in which final unappealed judgment beyond the right of appeal is rendered against Indemnitee for an accounting of profits made from the purchase or sale by Indemnitee of securities of the Company pursuant to the provisions of Section 16(b) of the Securities Exchange Act of 1934, as amended, or similar provisions of any federal, state, or local laws.

3. Reviewing Party. Prior to any Change in Control, the Reviewing Party shall be any appropriate person or body consisting of a member or members of the Board or any other person or body appointed by the Board who is not a party to the particular Proceeding with respect to which Indemnitee is seeking indemnification; after a Change in Control, the Reviewing Party shall be the Independent Counsel referred to below. With respect to all matters arising after a Change in Control (other than a Change in Control approved by a majority of the directors on the Board who were directors immediately prior to such Change in Control) concerning the rights of Indemnitee to indemnity payments and Expense Advances under this Agreement or any other agreement or under applicable law or the Company's Articles of Incorporation or Bylaws now or hereafter in effect relating to indemnification for Indemnifiable Events, the Company shall seek legal advice only from Independent Counsel selected by Indemnitee and approved by the Company (which approval shall not be unreasonably withheld), and who has not otherwise performed services for the Company or the Indemnitee (other than in connection with indemnification matters) within the last five years. The Independent Counsel shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement. Such counsel, among other things, shall render its written opinion to the Company and Indemnitee as to whether and to what extent the Indemnitee should be permitted to be indemnified under applicable law. The Company agrees to pay the reasonable fees of the Independent Counsel and to indemnify fully such counsel against any and all expenses (including attorneys' fees), claims, liabilities, loss, and damages arising out of or relating to this Agreement or the engagement of Independent Counsel pursuant hereto.

4. Indemnification Process and Appeal.

(a) Indemnification Payment. Indemnitee shall be entitled to indemnification of Expenses, and shall receive payment thereof, from the Company in accordance with this Agreement as soon as practicable after Indemnitee has made written demand on the Company for indemnification, unless the Reviewing Party has given a written opinion to the Company that Indemnitee is not entitled to indemnification under applicable law.

(b) Suit to Enforce Rights. Regardless of any action by the Reviewing Party, if Indemnitee has not received full indemnification within thirty days after making a demand in accordance with Section 4(a), Indemnitee shall have the right to enforce its indemnification rights under this Agreement by commencing litigation in any court in the State of Nevada having subject matter jurisdiction thereof and in which venue is proper seeking an initial determination by the court or challenging any determination by the Reviewing Party or any aspect thereof. The Company hereby consents to service of process and to appear in any such proceeding. Any determination by the Reviewing Party not challenged by the Indemnitee shall be binding on the Company and Indemnitee. The remedy provided for in this Section 4 shall be in addition to any other remedies available to Indemnitee in law or equity.

(c) Defense to Indemnification, Burden of Proof, and Presumptions. It shall be a defense to any action brought by Indemnitee against the Company to enforce this Agreement (other than an action brought to enforce a claim for Expenses incurred in defending a Proceeding in advance of its final disposition where the required undertaking has been tendered to the Company) that it is not permissible under applicable law for the Company to indemnify Indemnitee for the amount claimed. In connection with any such action or any determination by the Reviewing Party or otherwise as to whether Indemnitee is entitled to be indemnified hereunder, the burden of proving such a defense or determination shall be on the Company. Neither the failure of the Reviewing Party or the Company (including its Board, independent legal counsel, or its shareholders) to have made a determination prior to the commencement of such action by Indemnitee that indemnification of the claimant is proper under the circumstances because he has met the standard of conduct set forth in applicable law, nor an actual determination by the Reviewing Party or Company (including its Board, independent legal counsel, or its shareholders) that the Indemnitee had not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the Indemnitee has not met the applicable standard of conduct. For purposes of this Agreement, the termination of any claim, action, suit, or proceeding, by judgment, order, settlement (whether with or without court approval), conviction, or upon a plea of nolo contendere, or its equivalent, shall not create a presumption that Indemnitee did not meet any particular standard of conduct or have any particular belief or that a court has determined that indemnification is not permitted by applicable law.

5. Indemnification for Expenses Incurred in Enforcing Rights. The Company shall indemnify Indemnitee against any and all Expenses that are incurred by Indemnitee in connection with any action brought by Indemnitee for

(i) indemnification of Expenses by the Company under this Agreement or any other agreement or under applicable law or the Company's Articles of Incorporation or Bylaws now or hereafter in effect relating to indemnification for Indemnifiable Events; and/or

(ii) recovery under directors' and officers' liability insurance policies maintained by the Company, but only in the event that Indemnitee ultimately is determined to be entitled to such indemnification or insurance recovery, as the case may be. In addition, the Company shall, if so requested by Indemnitee, advance the foregoing Expenses to Indemnitee, subject to and in accordance with Section 2(c).

6. Notification and Defense of Proceeding.

(a) Notice. Promptly after receipt by Indemnitee of notice of the commencement of any Proceeding, Indemnitee will, if a claim in respect thereof is to be made against the Company under this Agreement, notify the Company of the commencement thereof; but the omission so to notify the Company will not relieve it from any liability that it may have to Indemnitee, except as provided in Section 6(c).

(b) Defense. With respect to any Proceeding as to which Indemnitee notifies the Company of the commencement thereof, the Company will be entitled to participate in the Proceeding at its own expense and except as otherwise provided below, to the extent the Company so wishes, it may assume the defense thereof with counsel reasonably satisfactory to Indemnitee. After notice from the Company to Indemnitee of its election to assume the defense of any Proceeding, the Company will not be liable to Indemnitee under this Agreement or otherwise for any Expenses subsequently incurred by Indemnitee in connection with the defense of such Proceeding other than reasonable costs of investigation or as otherwise provided below. Indemnitee shall have the right to employ his own counsel in such Proceeding, but all Expenses related thereto incurred after notice from the Company of its assumption of the defense shall be at Indemnitee's expense unless: (i) the employment of counsel by Indemnitee has been authorized by the Company; (ii) Indemnitee has reasonably determined that there may be a conflict of interest between Indemnitee and the Company in the defense of the Proceeding, after a Change in Control (other than a Change in Control approved by a majority of the directors on the Board who were directors immediately prior to such Change in Control); (iii) the employment of counsel by Indemnitee has been approved by the Independent Counsel; or (iv) the Company shall not in fact have employed counsel to assume the defense of such Proceeding, in each of which case all Expenses of the Proceeding shall be borne by the Company. The Company shall not be entitled to assume the defense of any Proceeding brought by or on behalf of the Company or as to which Indemnitee shall have made the determination provided for in (ii) above.

(c) Settlement of Claims. The Company shall not be liable to indemnify Indemnitee under this Agreement or otherwise for any amounts paid in settlement of any Proceeding effected without the Company's written consent, provided, however, that if a Change in Control has occurred (other than a Change in Control approved by a majority of the directors on the Board who were directors immediately prior to such Change in Control), the Company shall be liable for indemnification of Indemnitee for amounts paid in settlement if the Independent Counsel has approved the settlement. The Company shall not settle any Proceeding in any manner that would impose any penalty or limitation on Indemnitee without Indemnitee's written consent. Neither the Company nor the Indemnitee will unreasonably withhold their consent to any proposed settlement. The Company shall not be liable to indemnify the Indemnitee under this Agreement with regard to any judicial award if the Company was not given a reasonable and timely opportunity, at its expense, to participate in the defense of such action; the Company's liability hereunder shall not be excused if participation in the Proceeding by the Company was barred by this Agreement.

7. Establishment of Trust. In the event of a Change in Control (other than a Change in Control approved by a majority of the directors on the Board who were directors immediately prior to such Change in Control) the Company shall, upon written request by Indemnitee, create a Trust for the benefit of the Indemnitee and from time to time upon written request of Indemnitee shall fund the Trust in an amount sufficient to satisfy any and all Expenses reasonably anticipated at the time of each such request to be incurred in connection with investigating, preparing for, participating in, and/or defending any Proceeding relating to an Indemnifiable Event. The amount or amounts to be deposited in the Trust pursuant to the foregoing funding obligation shall be determined by the Reviewing Party. The terms of the Trust shall provide that: (i) the Trust shall not be revoked or the principal thereof invaded, without the written consent of the Indemnitee; (ii) the Trustee shall advance, within ten business days of a request by the Indemnitee, any and all Expenses to the Indemnitee (and the Indemnitee hereby agrees to reimburse the Trust under the same circumstances for which the Indemnitee would be required to reimburse the Company under Section 2(c) of this Agreement); (iii) the Trust shall continue to be funded by the Company in accordance with the funding obligation set forth above; (iv) the Trustee shall promptly pay to the Indemnitee all amounts for which the Indemnitee shall be entitled to indemnification pursuant to this Agreement or otherwise; and (v) all unexpended funds in the Trust shall revert to the Company upon a final determination by the Reviewing Party or a court of competent jurisdiction, as the case may be, that the Indemnitee has been fully indemnified under the terms of this Agreement. The Trustee shall be chosen by the Indemnitee. Nothing in this Section 7 shall relieve the Company of any of its obligations under this Agreement. All income earned on the assets held in the Trust shall be reported as income by the Company for federal, state, local, and foreign tax purposes. The Company shall pay all costs of establishing and maintaining the Trust and shall indemnify the Trustee against any and all expenses (including attorneys' fees), claims, liabilities, loss, and damages arising out of or relating to this Agreement or the establishment and maintenance of the Trust.

8. Non-Exclusivity. The rights of Indemnitee hereunder shall be in addition to any other rights Indemnitee may have under the Company's Articles of Incorporation, Bylaws, applicable law, or otherwise. To the extent that a change in applicable law (whether by statute or judicial decision) permits greater indemnification by agreement than would be afforded currently under the Company's Articles of Incorporation, Bylaws, applicable law, or this Agreement, it is the intent of the parties that Indemnitee enjoy by this Agreement the greater benefits so afforded by such change.

9. Liability Insurance. To the extent the Company maintains an insurance policy or policies providing directors' and officers' liability insurance, Indemnitee shall be covered by such policy or policies, in accordance with its or their terms, to the maximum extent of the coverage available for any Company director or officer.

10. Period of Limitations. No legal action shall be brought and no cause of action shall be asserted by or on behalf of the Company or any affiliate of the Company against Indemnitee, Indemnitee's spouse, heirs, executors, or personal or legal representatives after the expiration of two (2) years from the date of accrual of such cause of action, or such longer period as may be required by state law under the circumstances. Any claim or cause of action of the Company or its affiliate shall be extinguished and deemed released unless asserted by the timely filing of a legal action within such period; provided, however, that if any shorter period of limitations is otherwise applicable to any such cause of action the shorter period shall govern.

11. Amendment of this Agreement. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be binding unless in the form of a writing signed by the party against whom enforcement of the waiver is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof. Subrogation. In the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnatee, who shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Company effectively to bring suit to enforce such rights.

12. No Duplication of Payments. The Company shall not be liable under this Agreement to make any payment in connection with any claim made against Indemnatee to the extent Indemnatee has otherwise received payment (under any insurance policy, Bylaw, or otherwise) of the amounts otherwise Indemnifiable hereunder.

13. Binding Effect. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation, or otherwise to all or substantially all of the business and/or assets of the Company), assigns, spouses, heirs, and personal and legal representatives. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation, or otherwise) to all, substantially all, or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnatee, expressly to 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 succession had taken place. The indemnification provided under this Agreement shall continue as to Indemnatee for any action taken or not taken while serving in an indemnified capacity pertaining to an Indemnifiable Event even though he may have ceased to serve in such capacity at the time of any Proceeding.

14. Severability. If any provision (or portion thereof) of this Agreement shall be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law. Furthermore, to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of this Agreement containing any provision held to be invalid, void, or otherwise unenforceable, that is not itself invalid, void, or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, void, or unenforceable.

15. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California applicable to contracts made and to be performed in such State without giving effect to the principles of conflicts of laws.

16. Notices. All notices, demands, and other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed, postage prepaid, certified or registered mail, return receipt requested, and addressed to the Company at:

VistaGen Therapeutics, Inc.
343 Allerton Avenue
South San Francisco, CA 94080 Attention: CEO

and to Indemnatee at:

Mark A. Smith, M.D., Ph.D.
11 Gomer Court
Elkton, MD 21921

Notice of change of address shall be effective only when done in accordance with this Section. All notices complying with this Section shall be deemed to have been received on the date of delivery or on the third business day after mailing.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement as of the day specified above.

VISTAGEN THERAPEUTICS, INC.

By: /s/ Shawn Singh
Name: Shawn Singh
Title: Chief Executive Officer

MARK A. SMITH, M.D., Ph.D.

/s/ Mark A. Smith
Indemnatee

CERTIFICATION

I, Shawn K. Singh, certify that;

1. I have reviewed this quarterly report on Form 10-Q of VistaGen Therapeutics, Inc.;
2. Based on my knowledge, this report, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by the 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(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

November 14, 2016

/s/ Shawn K. Singh
Shawn K. Singh
Principal Executive Officer

CERTIFICATION

I, Jerrold D. Dotson, certify that:

1. I have reviewed this quarterly report on Form 10-Q of VistaGen Therapeutics, Inc.;
2. Based on my knowledge, this report, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by the 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(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

November 14, 2016

/s/ Jerrold D. Dotson
Jerrold D. Dotson
Principal Financial Officer

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

In connection with the Quarterly Report on Form 10-Q of VistaGen Therapeutics, Inc. (the "*Company*") for the quarter ended September 30, 2016 as filed with the Securities and Exchange Commission on the date hereof (the "*Report*"), Shawn K. Singh, JD, the Company's Principal Executive Officer, and Jerrold D. Dotson, the Company's Principal Financial Officer, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that to the best of their knowledge:

1. The Report fully complies with the requirement of Section 13(a) or Section 15 (d) of the Securities Exchange Act of 1934, and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

November 14, 2016

/s/ Shawn K. Singh
Shawn K. Singh
Principal Executive Officer

/s/ Jerrold D. Dotson
Jerrold D. Dotson
Principal Financial Officer
