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

FORM 10-Q

(Mark One)

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

For the quarterly period ended June 30, 2021

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: 000-50644

Cutera, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**77-0492262**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

3240 Bayshore Blvd., Brisbane, California 94005
(Address of principal executive offices)

(415) 657-5500
(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock ($0.001 par value)	CUTR	The NASDAQ Stock Market, LLC

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 x No ☐

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

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

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

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

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

The number of shares of Registrant's common stock issued and outstanding as of July 30, 2021, was 17,942,446.

CUTERA, INC.

FORM 10-Q

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In this Quarterly Report on Form 10-Q, “Cutera,” “the Company,” “we,” “us” and “its” refer to Cutera, Inc. and its consolidated subsidiaries.

This report may contain references to its proprietary intellectual property, including among others, trademarks for its systems and ancillary products, *Cutera®*,*AccuTip®*, *CoolGlide®*, *CoolGlide excel®*, *enlighten®*, *excel HR®*, *excel V®*, *excel V+®*, *LimeLight®*, *MyQ®*, *Pearl®*, *PicoGenesis™*,*ProWave®*, *Solera®*, *Titan®*, *truSculpt®*, *truSculpt® flex*, *Secret PRO®*, *Secret RF® and xeo®*.

These trademarks and trade names are the property of Cutera or the property of its consolidated subsidiaries and are protected under applicable intellectual property laws. Solely for convenience, its trademarks and tradenames referred to in this Quarterly Report on Form 10-Q may appear without the ® or symbols, but such references are not intended to indicate in any way that the Company will not assert, to the fullest extent under applicable law, its rights to these trademarks and tradenames.

PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS (UNAUDITED)

CUTERA, INC.

CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share data)
(unaudited)

	June 30, 2021	December 31, 2020
Assets		
Current assets:		
Cash and cash equivalents	$ 169,200	$ 47,047
Accounts receivable, net of allowance for credit losses of $1,639 and $1,598, respectively	25,903	21,962
Inventories	34,591	28,508
Other current assets and prepaid expenses	8,856	8,779
Total current assets	238,550	106,296
Property and equipment, net	2,148	2,299
Deferred tax asset	592	643
Operating lease right-of-use assets	15,919	17,076
Goodwill	1,339	1,339
Other long-term assets	5,615	5,080
Total assets	$ 264,163	$ 132,733
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 6,210	$ 6,684
Accrued liabilities	41,343	31,079
Operating lease liabilities	2,422	2,260
PPP loan payable	—	3,630
Extended warranty liability	649	1,216
Deferred revenue	9,695	9,489
Total current liabilities	60,319	54,358
Deferred revenue, net of current portion	1,708	1,748
Operating lease liabilities, net of current portion	14,705	15,950
PPP loan payable, net of current portion	—	3,555
Convertible notes, net of unamortized debt issuance costs of $4,450	133,800	—
Other long-term liabilities	288	242
Total liabilities	210,820	75,853
Commitments and Contingencies (Notes 12)		
Stockholders’ equity:		
Common stock, $0.001 par value; authorized: 50,000,000 shares; issued and outstanding: 17,933,020 and 17,679,232 shares at June 30, 2021 and December 31, 2020, respectively	18	18
Additional paid-in capital	106,173	117,097
Accumulated deficit	(52,848)	(60,235)
Total stockholders’ equity	53,343	56,880
Total liabilities and stockholders’ equity	$ 264,163	$ 132,733

The accompanying notes are an integral part of these unaudited Condensed Consolidated Financial Statements.

CUTERA, INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share data)
(unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Net revenue:				
Products	$ 51,812	$ 21,745	$ 95,363	$ 48,136
Service	6,777	4,624	12,894	10,472
Total net revenue	58,589	26,369	108,257	58,608
Cost of revenue:				
Products	20,893	12,206	39,224	26,309
Service	3,907	2,539	7,534	6,339
Total cost of revenue	24,800	14,745	46,758	32,648
Gross profit	33,789	11,624	61,499	25,960
Operating expenses:				
Sales and marketing	18,410	11,035	33,478	25,823
Research and development	4,850	2,991	8,962	6,862
General and administrative	8,461	8,529	15,826	16,336
Total operating expenses	31,721	22,555	58,266	49,021
Income (loss) from operations	2,068	(10,931)	3,233	(23,061)
Interest and other income (expense), net:				
Amortization of debt issuance costs	(215)	—	(267)	—
Interest on convertible notes	(778)	—	(969)	—
Gain on extinguishment of PPP loan	7,185	—	7,185	—
Other income (expense), net	(392)	3	(1,415)	(204)
Total interest and other income (expense), net	5,800	3	4,534	(204)
Income (loss) before income taxes	7,868	(10,928)	7,767	(23,265)
Income tax expense	122	466	380	543
Net income (loss)	$ 7,746	$ (11,394)	$ 7,387	$ (23,808)
Net income (loss) per share:				
Basic	$ 0.43	$ (0.67)	$ 0.41	$ (1.51)
Diluted	$ 0.39	$ (0.67)	$ 0.40	$ (1.51)
Weighted-average number of shares used in per share calculations:				
Basic	17,862	17,055	17,815	15,744
Diluted	22,453	17,055	20,855	15,744

The accompanying notes are an integral part of these unaudited Condensed Consolidated Financial Statements.

CUTERA, INC.

CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(in thousands)
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Net income (loss)	$ 7,746	$ (11,394)	$ 7,387	$ (23,808)
Other comprehensive gain:				
Available-for-sale investments				
Reclassification adjustment for losses on investments recognized during the period	—	2	—	63
Net change in unrealized gain on available-for-sale investments	—	2	—	63
Other comprehensive gain, net of tax	—	2	—	63
Comprehensive income (loss)	$ 7,746	$ (11,392)	$ 7,387	$ (23,745)

The accompanying notes are an integral part of these unaudited Condensed Consolidated Financial Statements.

CUTERA, INC.

CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(in thousands, except share amounts)

Three and Six Months Ended June 30, 2021

	Common Stock		Additional Paid-in Capital	Retained Earnings (Accumulated Deficit)	Accumulated Other Comprehensive Income (loss)	Total Stockholders' Equity
	Shares	Amount				
Balance at December 31, 2020	17,679,232	$ 18	$ 117,097	$ (60,235)	$ —	$ 56,880
Issuance of common stock for employee purchase plan	38,991	—	645	—	—	645
Exercise of stock options	53,598	—	1,252	—	—	1,252
Purchase of capped call	—	—	(16,134)	—	—	(16,134)
Issuance of common stock in settlement of restricted and performance stock units, net of shares withheld for employee taxes	161,199	—	(1,452)	—	—	(1,452)
Stock-based compensation expense	—	—	4,765	—	—	4,765
Net income	—	—	—	7,387	—	7,387
Balance at June 30, 2021	17,933,020	$ 18	$ 106,173	$ (52,848)	$ —	$ 53,343

	Common Stock		Additional Paid-in Capital	Retained Earnings (Accumulated Deficit)	Accumulated Other Comprehensive Income (loss)	Total Stockholders' Equity
	Shares	Amount				
Balance at March 31, 2021	17,801,926	$ 18	$ 102,206	$ (60,594)	$ —	$ 41,630
Issuance of common stock for employee purchase plan	38,991	—	645	—	—	645
Exercise of stock options	29,508	—	856	—	—	856
Issuance of common stock in settlement of restricted and performance stock units, net of shares withheld for employee taxes	62,595	—	(453)	—	—	(453)
Stock-based compensation expense	—	—	2,919	—	—	2,919
Net income	—	—	—	7,746	—	7,746
Balance at June 30, 2021	17,933,020	$ 18	$ 106,173	$ (52,848)	$ —	$ 53,343

Three and Six Months Ended June 30, 2020

	Common Stock		Additional Paid-in Capital	Retained Earnings (Accumulated Deficit)	Accumulated Other Comprehensive Income (loss)	Total Stockholders' Equity
	Shares	Amount				
Balance at December 31, 2019	14,315,586	$ 14	$ 82,346	$ (36,358)	$ (60)	$ 45,942
Issuance of common stock for employee purchase plan	39,248	—	437	—	—	437
Exercise of stock options	46,128	—	411	—	—	411
Issuance of common stock in settlement of restricted and performance stock units, net of shares withheld for employee taxes	423,976	1	(3,118)	—	—	(3,117)
Issuance of common stock in connection with public offering, net of offering cost of $2,303	2,742,750	3	26,493	—	—	26,496
Stock-based compensation expense	—	—	6,075	—	—	6,075
Net loss	—	—	—	(23,808)	—	(23,808)
Net change in unrealized loss on available-for-sale investments	—	—	—	—	63	63
Balance at June 30, 2020	17,567,688	$ 18	$ 112,644	$ (60,166)	$ 3	$ 52,499

	Common Stock		Additional Paid-in Capital	Retained Earnings (Accumulated Deficit)	Accumulated Other Comprehensive Income (loss)	Total Stockholders' Equity
	Shares	Amount				
Balance at March 31, 2020	14,578,146	$ 15	$ 82,292	$ (48,772)	$ 1	$ 33,536
Issuance of common stock for employee purchase plan	39,248	—	437	—	—	437
Exercise of stock options	23,837	—	210			210
Issuance of common stock in settlement of restricted and performance stock units, net of shares withheld for employee taxes	183,707	—	(883)	—	—	(883)
Issuance of common stock in connection with public offering, net of offering cost of $2,303	2,742,750	3	26,493			26,496
Stock-based compensation expense	—	—	4,095	—	—	4,095
Net loss	—	—	—	(11,394)	—	(11,394)
Net change in unrealized loss on available-for-sale investments	—	—	—	—	2	2
Balance at June 30, 2020	17,567,688	$ 18	$ 112,644	$ (60,166)	$ 3	$ 52,499

The accompanying notes are an integral part of these unaudited Condensed Consolidated Financial Statements.

CUTERA, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)
(unaudited)

	Six Months Ended June 30,	
	2021	**2020**
Cash flows from operating activities:		
Net income (loss)	$ 7,387	$ (23,808)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
Stock-based compensation	4,765	6,075
Depreciation and amortization	707	715
Amortization of contract acquisition costs	1,003	1,392
Amortization of debt issuance costs	267	—
Impairment of capitalized cloud computing costs	182	805
Change in deferred tax asset	51	4
Allowance for credit losses	492	1,696
Gain on sale of property and equipment	(82)	—
Gain on extinguishment of PPP loan	(7,185)	—
Change in right-of-use assets	604	—
Other	—	198
Changes in assets and liabilities:		
Accounts receivable	(4,433)	6,034
Inventories	(5,958)	2,681
Other current assets and prepaid expenses	(77)	316
Other long-term assets	(1,720)	(519)
Accounts payable	(474)	(1,004)
Accrued liabilities	10,220	(9,754)
Extended warranty liabilities	(567)	(339)
Operating lease liabilities	(530)	—
Deferred revenue	166	(2,443)
Net cash provided by (used in) operating activities	4,818	(17,951)
Cash flows from investing activities:		
Acquisition of property, equipment, and software	(370)	(435)
Proceeds from disposal of property and equipment	71	—
Proceeds from maturities of marketable investments	—	10,900
Purchase of marketable investments	—	(16,167)
Net cash used in investing activities	(299)	(5,702)
Cash flows from financing activities:		
Proceeds from exercise of stock options and employee stock purchase plan	1,897	848
Purchase of capped call	(16,134)	—
Proceeds from issuance of Convertible notes	138,250	7,149
Payment of issuance costs of Convertible notes	(4,717)	—
Proceeds from equity offering	—	28,799
Cost of equity offering	—	(2,303)
Taxes paid related to net share settlement of equity awards	(1,451)	(3,117)
Payments on finance lease obligations	(211)	(380)
Net cash provided by financing activities	117,634	30,996
Net increase in cash and cash equivalents	122,153	7,343
Cash and cash equivalents at beginning of period	47,047	26,316
Cash and cash equivalents at end of period	$ 169,200	$ 33,659
Supplemental disclosure of non-cash items:		
Assets acquired under finance lease	$ 25	$ 27
Assets acquired under operating lease	$ 123	$ 1,169
Gain on extinguishment of PPP loan	$ 7,185	$ —
Debt issuance costs accrued	$ 452	$ —
Supplemental disclosure of cash flow information:		
Income tax paid	$ 458	$ —

The accompanying notes are an integral part of these unaudited Condensed Consolidated Financial Statements.

CUTERA, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Note 1. Summary of Significant Accounting Policies

Description of Operations and Principles of Consolidation

Cutera, Inc. (“Cutera” or the “Company”) provides energy-based aesthetic systems for practitioners worldwide. The Company develops, manufactures, distributes, and markets energy-based product platforms for use by physicians and other qualified practitioners, enabling them to offer safe and effective aesthetic treatments to their customers. The Company currently markets the following system platforms: *enlighten*, *excel*, *Secret PRO*, *Juliet*, *Secret RF*, *truSculpt* and *xeo*. Several of the Company’s systems offer multiple hand pieces and applications, providing customers the flexibility to upgrade their systems. The sales of (i) systems, system upgrades, and hand pieces (collectively “Systems” revenue); (ii) replacement hand pieces, *Titan*, *truSculpt* 3*D*,*truSculpt iD* and *truSculpt flex* cycle refills, as well as single use disposable tips applicable to *Secret PRO*, *Juliet* and *Secret RF* (“Consumables” revenue); (iii) the distribution of third party manufactured skincare products (“Skincare” revenue); and (iv) the leasing of equipment through a membership program; are collectively classified as “Products” revenue. In addition to Products revenue, the Company generates revenue from the sale of post-warranty service contracts, parts, detachable hand piece replacements (except for *Titan*, *truSculpt 3D*, *truSculpt iD* and *truSculpt flex)* and service labor for the repair and maintenance of products that are out of warranty, all of which are collectively classified as “Service” revenue.

The Company’s corporate headquarters and U.S. operations are located in Brisbane, California, where the Company conducts manufacturing, warehousing, research and development, regulatory, sales and marketing, service, and administrative activities. The Company also maintains regional distribution centers (“RDCs”) in select locations across the U.S. These RDCs serve as forward warehousing for systems and service parts in various geographies. The Company markets, sells and services its products through its sales and service employees in North America (including Canada), Australia, Austria, Belgium, France, Germany, Hong Kong, Japan, Spain, Switzerland, and the United Kingdom. Sales and services outside of these direct markets are made through a worldwide distributor network in over 42 countries. The condensed consolidated financial statements include the accounts of the Company and its subsidiaries.

Basis of Presentation

In the opinion of the Company, the accompanying unaudited condensed consolidated financial statements included in this report reflect all adjustments necessary for a fair statement of its condensed consolidated statements of financial position as of June 30, 2021 and December 31, 2020, and its condensed consolidated statements of results of operations, comprehensive income (loss), changes in equity, and cash flows for the three and six months ended June 30, 2021, and 2020. The December 31, 2020 condensed consolidated balance sheet was derived from audited financial statements, but does not include all disclosures required by generally accepted accounting principles in the United States of America (“GAAP”). The results for interim periods are not necessarily indicative of results for the entire year or any other interim period. Presentation of certain prior year balances have been updated to conform with current year presentation. All significant intercompany accounts and transactions have been eliminated upon consolidation. The accompanying condensed consolidated financial statements should be read in conjunction with the Company’s previously filed audited financial statements and the related notes thereto included in the Company’s annual report on Form 10-K for the year ended December 31, 2020 filed with the Securities and Exchange Commission (the “SEC”) on March 23, 2021.

Risks and Uncertainties

The Company's future results of operations involve a number of risks and uncertainties. Factors that could affect the Company's future operating results and cause actual results to vary materially from expectations include, but are not limited to, rapid technological change, continued acceptance of the Company's products, stability of global financial markets, cybersecurity breaches and other disruptions that could compromise the Company’s information or results, business disruptions that are caused by natural disasters or pandemic events, management of international activities, competition from substitute products and larger companies, ability to obtain and maintain regulatory approvals, government regulations and oversight, patent and other types of litigation, ability to protect proprietary technology from counterfeit versions of the Company's products, strategic relationships and dependence on key individuals.

In March 2020, the World Health Organization declared the COVID-19 outbreak a pandemic. The COVID-19 outbreak has negatively affected the United States and global economies. Though the economy is gradually recovering as of the second quarter of 2021, the timing and extent of a full global economic recovery is still uncertain. The spread of the coronavirus and the Delta variant in particular, has impacted the global economy broadly in 2020, including restrictions on travel, shifting work

forces to work remotely and quarantine policies put into place by businesses and governments, had a material economic effect on the Company's business during the year ended December 31, 2020 and in the six months ended June 30, 2021. Healthcare facilities in many countries effectively banned elective procedures and this had a significant impact on the Company. Many of the Company's products are used in aesthetic elective procedures and as such, the bans on elective procedures substantially reduced the Company's sales and marketing efforts in the early months of the pandemic and led the Company to implement cost control measures. Although the Company's revenues and profits have improved compared to the first half of fiscal 2020 and the overall economic outlook has also improved in 2021, the COVID-19 outbreak continues to be fluid especially in light of the Delta variant, and the long-term impact on the Company's business due to COVID-19 is still uncertain. The Company cannot presently predict the scope and severity of any impacts in future periods from business shutdowns or disruptions due to the COVID-19 pandemic, but the impact on economic activity including the possibility of recession or financial market instability could have a material adverse effect on the Company's business, revenue, operating results, cash flows and financial condition.

The Company continues to assess whether any impairment of its goodwill or its long-lived assets has occurred and has determined that no charges, other than an impairment loss of $0.2 million on capitalized implementation costs of cloud-based customer relationship management ("CRM") software occurred were necessary during the six months ended June 30, 2021. The Company will continue to monitor future conditions important to its assessment of potential impairment of its long-lived assets and goodwill, including the impacts of the COVID–19 pandemic and other ongoing impacts which are subject to uncertainty.

The Company has experienced a significant increase in sales of skincare products under the exclusive distribution agreement with ZO Skin Health, Inc. ("ZO"), which allows the Company to sell ZO's skincare products in Japan. The reason for the increase in skincare products sales may have been the result of changes in customers' spending habits as customers purchased more aesthetic treatments that were able to be applied at home, due to limitations on in-person aesthetic procedures, social distancing and mask wearing requirements due to the COVID-19 pandemic. Future growth in sales of skincare products depends on customers' spending habits, which may revert to original spending habits after the COVID-19 pandemic. Such changes may have a material adverse effect on the Company's revenue, operating results, and cash flows.

Accounting Policies

These unaudited condensed consolidated financial statements are prepared in accordance with the rules and regulations of the SEC applicable to interim financial statements. While these statements reflect all normal recurring adjustments that are, in the opinion of management, necessary for fair presentation of the results of the interim period, they do not include all of the information and footnotes required by GAAP for complete financial statements. These condensed consolidated financial statements should be read in conjunction with the financial statement disclosures in its annual report on Form 10-K for the year ended December 31, 2020 filed with the SEC on March 23, 2021.

The Company uses the same accounting policies in preparing quarterly and annual financial statements. Unless otherwise noted, amounts presented within the notes to condensed consolidated financial statements refer to the Company's continuing operations. Note 13 provides information about the Company's adoption of the new accounting standard for debt with conversion and other options, which simplifies the accounting for certain financial instruments with characteristics of liabilities and equity, including convertible instruments and contracts in an entity's own equity.

The Company issued $138.3 million of convertible senior notes ("Notes" or "Convertible notes") in a private placement offering on March 5, 2021. The Convertible notes bear interest at a rate of 2.25% per year. In accordance with Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") *2020-6, Debt—Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging— Contracts in Entity's Own Equity (Subtopic 815-40)*, the Company recorded the Convertible notes as long-term debt with no separation between the Convertible notes and the conversion option. Each reporting period, the Company will determine whether any criteria is met for the note holders to have the option to redeem the Convertible notes early, which will result in a change in the classification of the Convertible notes to current liabilities.

The circumstances described in the paragraph above were met during the second quarter of 2021 as the Company's stock traded at a price in excess of the conversion price, and as a result, the Notes are convertible at the option of the holder from July 1, 2021 until September 30, 2021. Upon any conversion of the Convertible notes, the Company would be required to pay or deliver, as the case may be, cash, shares of its common stock, or a combination of cash and shares of its common stock, at the Company's election. To the extent there are any conversions during the period from July 1, 2021 until September 30, 2021, the Company intends to settle such conversions by issuing shares of common stock; therefore, as of June 30, 2021, the Convertible notes have been included as long term liability on the condensed consolidated balance sheet.

The costs associated with issuance of the Convertible notes, including underwriters' fees, are presented in the condensed consolidated balance sheet as a direct deduction from the carrying amount of the Convertible notes. The debt issuance costs are being amortized over the life of the Convertible notes as additional non-cash interest expense.

In connection with issuance of the Convertible notes, the Company entered into capped call transactions with certain option counterparties. The capped call transactions are generally designated to reduce the potential dilution of the Company's common stock upon any conversion of the Notes. The capped calls were purchased for $16.1 million and recorded as a reduction to additional paid in capital in the condensed consolidated balance sheet as of June 30, 2021.

The Company capitalized cloud computing systems implementation costs of $0.6 million during the three months ending June 30, 2021. These costs relate to an on-going implementation of a new Enterprise Resource Planning system and are included in Other long-term assets and Other current assets and prepaid expenses on the condensed consolidated balance sheet.

Use of Estimates

The preparation of condensed consolidated financial statements in conformity with GAAP requires the Company's management to make estimates and assumptions that affect the amounts reported of assets and liabilities and disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements and the accompanying notes, and the reported amounts of revenue and expenses during the reported periods. Actual results could differ materially from those estimates.

On an ongoing basis, management evaluates its estimates, including those related to warranty obligations, sales commission, allowance for credit losses, sales allowances, valuation of inventories, fair value of goodwill, useful lives of property and equipment, impairment testing for long-lived-assets, implicit and incremental borrowing rates related to the Company's leases, variables used in calculating the fair value of the Company's equity awards, expected achievement of performance based vesting criteria, management performance bonuses, assumptions used in operating and sales-type lease classification, the standalone selling price of the Company's products and services, the period of benefit used to capitalize and amortize contract acquisition costs, variable consideration, contingent liabilities, recoverability of deferred tax assets, residual value of leased equipment, lease term and effective income tax rates. Management bases estimates on historical experience and on various other assumptions that are believed to be reasonable, the results of which form the basis for making judgments about the carrying values of assets and liabilities.

Recently Adopted Accounting Pronouncements

In December 2019, the FASB issued ASU *No. 2019-12 Income Taxes (Topic 740)-Simplifying the Accounting for Income Taxes*, to remove certain exceptions and improve consistency of application, including, among other things, requiring that an entity reflect the effect of an enacted change in tax laws or rates in the annual effective tax rate computation in the interim period that includes the enactment date. The Company adopted this guidance in the three and six months ended June 30, 2021. The adoption of this guidance did not have a material impact on the Company's consolidated financial position and results of operations.

In August 2020, the FASB issued ASU No. 2020-6, *Debt – Debt with Conversion and Other Options (Topic 470) and Derivatives and Hedging – Contracts in Entity's Own Equity (Topic 815)*, to simplify the accounting for convertible debt instruments by removing the beneficial conversion and cash conversion separation models for convertible instruments. Under the amendment, the embedded conversion features are no longer separated from the host contract for convertible instruments with conversion features that are not required to be accounted for as derivatives or that do not result in substantial premiums accounted for as paid-in capital. The update also amends the accounting for certain contracts in an entity's own equity that are currently accounted for as derivatives because of specific settlement provisions. In addition, the new guidance modifies how particular convertible instruments and certain contracts that may be settled in cash or shares impact the computation of diluted earnings per share. The Company early adopted the guidance on a prospective basis effective January 1, 2021. See Note 13 – Debt.

Note 2. Cash, Cash Equivalents

The following table summarizes the Company's cash and cash equivalents (in thousands):

(Dollars in thousands)	**June 30, 2021**	**December 31, 2020**
Cash and cash equivalents	$ 169,200	$ 47,047

The Company had no marketable securities as of June 30, 2021 and December 31, 2020.

Note 3. Fair Value of Financial Instruments

The Company measures certain financial assets at fair value, including cash and cash equivalents.

The fair value hierarchy contains the following three levels of inputs that may be used to measure fair value, in accordance with ASC 820:

- Level 1: inputs, which include quoted prices in active markets for identical assets or liabilities;

- Level 2: inputs, which include observable inputs other than Level 1 inputs, such as quoted prices for similar assets or liabilities, quoted prices for identical or similar assets or liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the asset or liability. When sufficient quoted pricing for identical securities is not available, the Company uses market pricing and other observable market inputs for similar securities obtained from various third-party data providers. These inputs either represent quoted prices for similar assets in active markets or have been derived from observable market data; and

- Level 3: inputs, which include unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the underlying asset or liability. Level 3 assets and liabilities include those whose fair value measurements are determined using pricing models, discounted cash flow methodologies, or similar valuation techniques, as well as significant management judgment or estimation.

In determining fair value, the Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible as well as considering counterparty credit risk in its assessment of fair value.

See Note 13 - Debt for the carrying amount and estimated fair value of the Company's Convertible notes due 2026.

Note 4. Balance Sheet Details

Inventories

As of June 30, 2021 and December 31, 2020, inventories consist of the following (in thousands):

	June 30, 2021	December 31, 2020
Raw materials	$ 15,862	$ 14,874
Work in process	1,145	1,030
Finished goods	17,584	12,604
Total	$ 34,591	$ 28,508

Accrued Liabilities

As of June 30, 2021 and December 31, 2020, accrued liabilities consist of the following (in thousands):

	June 30, 2021	December 31, 2020
Accrued payroll and related expenses	$ 16,427	$ 12,197
Sales and marketing accruals	3,124	2,352
Accrued inventory in transit	4,469	2,476
Product warranty	3,789	2,908
Accrued sales tax	5,439	5,343
Other accrued liabilities	8,095	5,803
Total	$ 41,343	$ 31,079

Product Remediation Liability

During the fourth quarter of 2018, the Company recognized a liability for a product remediation plan related to one of its legacy systems. This was related to a voluntary action initiated by the Company to replace a component in one of the Company's

legacy products. The remediation plan consists primarily of replacement of a component in the system. The accrued liability consisted of the estimated cost of materials and labor to replace the component in all units that were under the Company's standard warranty or were covered under the existing extended warranty contracts. The Company recorded a liability of approximately $5.0 million in 2018.

As of June 30, 2021 and December 31, 2020, approximately $0.3 million of the total product remediation liability balance was recorded as a component of the Company’s product warranty and included in accrued liabilities, and $0.7 million and $1.2 million, respectively, was separately recorded as extended warranty liability.

During the three and six months ended June 30, 2021, the Company recorded $0.1 million and $0.2 million, respectively, of excess reserve related to extended warranty and product warranty. Total costs incurred (including excess reversals) related to product warranty and extended warranty liability during the three and six months ended June 30, 2021 were $0.1 million and $0.5 million, respectively. Total costs incurred related to product warranty and extended warranty liability during the three and six months ended June 30, 2020 were Nil and $0.3 million, respectively.

Note 5. Warranty and Extended Service Contract

The Company has a direct field service organization in North America (including Canada). Internationally, the Company provides direct service support in Australia, Belgium, France, Germany, Hong Kong, Japan, Spain, Switzerland, and the United Kingdom. In several other countries, where the Company does not have a direct presence, the Company provides service through a network of distributors and third-party service providers.

After the original warranty period, maintenance and support are offered on an extended service contract basis or on a time and materials basis. The Company provides for the estimated cost to repair or replace products under standard warranty at the time of sale. Costs incurred in connection with extended service contracts are recognized at the time when costs are incurred, except for a one-time extended service contracts charge of $3.2 million recorded in the year ended December 31, 2018 related to the cost to replace a component in one of the Company's legacy products.

The following table provides the changes in the product warranty accrual for the three and six months ended June 30, 2021 and 2020 (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020 (1)	2021	2020 (1)
Beginning Balance	$ 3,351	$ 3,398	$ 2,908	$ 4,401
Add: Accruals for warranties issued during the period	2,210	1,100	3,735	1,960
Less: Settlements made during the period	(1,772)	(1,343)	(2,854)	(3,206)
Ending Balance	$ 3,789	$ 3,155	$ 3,789	$ 3,155

(1) The ending product warranty accrual balance excludes 0.6 million and 1.7 million as of June 30, 2021 and 2020, respectively, related to one-time extended service contracts costs to replace components in one of the Company’s legacy products.

The $1.8 million and $2.9 million of settlements made in the three and six months ended June 30, 2021, and $1.3 million and $3.2 million made in the three and six months ended June 30, 2020, respectively, exclude costs related to extended service contract cost of $0.1 million and $0.3 million in the respective periods, incurred to replace a component in one of the Company's legacy products.

Note 6. Deferred Revenue

The Company records deferred revenue when revenue is to be recognized subsequent to invoicing. For extended service contracts, the Company generally invoices customers at the beginning of the extended service contract term. The Company’s extended service contracts typically have one, two or three year terms. Deferred revenue also includes payments for training and extended marketing support service. Approximately 84% of the Company’s deferred revenue balance of $11.4 million as of June 30, 2021 will be recognized over the next 12 months.

The following table provides changes in the deferred revenue balance for the three and six months ended June 30, 2021 and 2020 (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Beginning balance	$ 11,737	$ 12,969	$ 11,237	$ 14,222
Add: Payments received	4,423	2,554	9,352	6,125
Less: Revenue	(1,834)	(1,107)	(2,279)	(1,699)
Less: Revenue included in the beginning balance and recognized as revenue in the current quarter	(2,923)	(2,637)	(6,907)	(6,869)
Ending balance	$ 11,403	$ 11,779	$ 11,403	$ 11,779

Costs for extended service contracts were $2.2 million and $4.2 million for the three and six months ended June 30, 2021, respectively, and were $2.3 million and $3.5 million for the three and six months ended June 30, 2020, respectively.

Note 7. Revenue

Revenue is recognized upon transfer of control of promised products or services to customers in an amount that reflects the consideration to which the Company expects to be entitled in exchange for promised goods or services. The Company's performance obligations are satisfied either over time or at a point in time. Revenue from performance obligations that are transferred to customers over time accounted for approximately 12% of the Company's total revenue for the three months ended June 30, 2021 and 2020, and 18% of the Company's total revenue for the six months ended June 30, 2021 and 2020.

The Company has certain system sale arrangements that contain multiple products and services. For these bundled sale arrangements, the Company accounts for individual products and services as separate performance obligations if they are distinct. The Company's products and services are distinct if a customer can benefit from the product or service on its own or with other resources that are readily available to the customer, and if the Company's promise to transfer the products or service to the customer is separately identifiable from other promises in the sale arrangements. The Company's system sale arrangements can include all or a combination of the following performance obligations: the system and software license (considered as one performance obligation), system accessories (hand pieces), training, other accessories, extended service contracts, marketing services, and time and materials services.

For the Company's system sale arrangements that include an extended service contract, the period of service commences at the expiration of the Company's standard warranty offered at the time of the system sale. The Company considers the extended service contracts terms in the arrangements that are legally enforceable to be performance obligations. Other than extended service contracts and marketing services, which are satisfied over time, the Company generally satisfies all performance obligations at a point in time. Systems, system accessories (hand pieces), service contracts, training, and time and materials services are also sold on a stand-alone basis, and these performance obligations are satisfied at a point in time. For contracts with multiple performance obligations, the Company allocates the transaction price of the contract to each performance obligation on a relative standalone selling price basis.

Significant Judgments

The determination of whether two or more contracts entered into at or near the same time with the same customer should be combined and accounted for as one contract may require the use of significant judgment. In making this determination, the Company considers whether the contracts are negotiated as a package with a single commercial objective, have price interdependencies, or promise goods or services that represent a single performance obligation.

While the Company's purchase agreements do not provide customers with a contractual right of return, the Company maintains a sales allowance to account for potential returns or refunds as a reduction in transaction price at the time of sale. The Company estimates sales returns and other variable consideration based on historical experience.

The Company determines the standalone selling price ("SSP") for each performance obligation as follows:

- Systems: The SSPs for systems are based on directly observable sales in similar circumstances to similar customers.
- Extended warranty/Service contracts: SSP is based on observable price when sold on a standalone basis (by customer type).

Nature of Products and Services

Systems

Systems revenue is generated from the sale of systems and from the sale of upgrades to existing systems. A system consists of a console that incorporates a universal graphic user interface, a laser or other energy-based module, control system software and high voltage electronics, as well as one or more hand pieces. In certain applications, the laser or other energy-based module is contained in the hand piece, such as with the Company's *Pearl* and *Pearl Fractional* applications, rather than within the console.

The Company offers customers the ability to select the system that best fits their practice at the time of purchase and then to cost-effectively add applications to their system as their practice grows. This provides customers the flexibility to upgrade their systems whenever they choose and provides the Company with a source of additional Systems revenue.

The system or upgrade and the right to use the embedded software represent a single performance obligation as the software license is integral to the functionality of the system or upgrade.

For systems sold directly to end-customers that are credit approved, revenue is recognized when the Company transfers control to the end-customer, which occurs when the product is shipped to the customer or when the customer receives the product, depending on the nature of the arrangement. When collectability is not established in advance of receipt of payment from the customer, revenue is recognized upon the later of the receipt of payment or the satisfaction of the performance obligation. For systems sold through credit approved distributors, revenue is recognized upon shipment to the distributor.

The Company typically receives payment for its system consoles and other accessories within 30 days of shipment. Certain international distributor arrangements allow for longer payment terms.

Skincare products

The Company sells third-party manufactured skincare products in Japan. The skincare products are purchased from a third-party manufacturer and sold to medical offices and licensed physicians. The Company warrants that the skincare products are free of significant defects in workmanship and materials for 90 days from shipment. These are typically sold in a separate contract as the only performance obligations. The Company acts as the principal in this arrangement, as the Company determines the price to charge customers for the skincare products and controls the products before they are transferred to the customer. The Company recognizes revenue for skincare products upon shipment.

Consumables and other accessories

The Company classifies its customers' purchases of replacement cycles for *truSculpt iD* and *truSculpt flex*, as well as replacement hand pieces, Titan and *truSculpt 3D* hand pieces, and single use disposable tips applicable to *Secret PRO*, *Juliet*, and *Secret RF*, as Consumable revenue, which provides the Company with a source of recurring revenue from existing customers. The *Juliet* and *Secret RF* products' single use disposable tips must be replaced after every treatment. Sales of these consumable tips further enhance the Company's recurring revenue. The Company's systems offer multiple hand pieces and applications, which allow customers to upgrade their systems.

Equipment leasing

The Company leases equipment to customers through membership programs and receives a fixed monthly fee over the term of the arrangement. The Company classifies its lease income as product revenue. The Company recognizes lease income over the term of the lease if the lease is classified as an operating lease. For agreements that grant customers the right to purchase the leased system, the Company typically classifies the lease as a sales-type lease as the Company has determined it is reasonably certain that the customer will exercise the purchase option. On the commencement of sales-type leases, the Company recognizes revenue upfront in product revenue and the corresponding receivables recorded in other current assets and prepaid expenses on the condensed consolidated balance sheets (See Note 11 - Leases). There was no revenue recognized for sales-type leases for the three and six months ended June 30, 2021 or 2020. Revenue from equipment leases, which was accounted for as operating leases, was not material for the three and six months ended June 30, 2021 or 2020.

Extended contract services

The Company offers post-warranty services to its customers through extended service contracts that cover parts and labor for terms of one, two, or three years. Service contract revenue is recognized over time, using a time-based measure of progress, as customers benefit from the service throughout the service period. The Company also offers services on a time-and-materials

basis for systems and detachable hand piece replacements. Revenue related to services performed on a time-and-materials basis is recognized when performed. These post-warranty services serve as additional sources of recurring revenue from the Company's installed product base.

Training

Sales of systems to customers include training on the use of the system to be provided within 180 days of purchase. The Company considers training a separate performance obligation as customers can immediately benefit from the training together with the customer's system. Training is also sold separately from systems. The Company recognizes revenue for training when the training is provided. Training is not required for customers to use the systems.

Customer Marketing Support

In North America, the Company offers marketing and consulting phone support to its customers across all system platforms. These customer marketing support services include a practice development model and marketing training, performed remotely with ongoing phone consultations for six months from date of purchase. The Company considers customer marketing support a separate performance obligation, and recognizes revenue over the six-month term of the contracts.

Loyalty Program

The Company has a customer loyalty program for qualified customers located in the U.S. and Canada. Under the loyalty program, based on their purchasing levels, customers accumulate points that can be redeemed for such rewards as the right to attend the Company's advanced training event for *truSculpt*, or a ticket for the Company's annual forum. A customer's account must be in good standing to receive the benefits of the rewards program. Rewards are earned on a quarterly basis and must be used in the following quarter. All unused rewards are forfeited. The fair value of the reward earned by loyalty program members is included in accrued liabilities and recorded as a reduction of net revenue at the time the reward is earned. As of June 30, 2021 and December 31, 2020, the liability for the loyalty program included in accrued liabilities was $0.6 million and $0.3 million, respectively.

Deferred Sales Commissions

Incremental costs of obtaining a contract, which consist primarily of commissions and related payroll taxes, are capitalized and amortized on a straight-line basis over the expected period of benefit, except for costs that are recognized when product is sold. The Company uses the portfolio method to recognize the amortization expense related to these capitalized costs related to initial contracts and such expense is recognized over a period associated with the revenue of the related portfolio, which is generally two to three years.

Total capitalized costs as of June 30, 2021 and December 31, 2020 were $3.6 million and $3.4 million, respectively, and are included in Other long-term assets in the Company's condensed consolidated balance sheet. Amortization expense for these assets was $0.5 million and $1.0 million during the three and six months ended June 30, 2021, respectively, and was $0.7 million and $1.4 million during the three and six months ended June 30, 2020, respectively. The amortization related to these capitalized costs is included in sales and marketing expense in the Company's condensed consolidated statement of operations.

Note 8. Stockholders' Equity and Stock-based Compensation Expense

The Company's equity incentive plans are broad-based, long-term programs intended to attract and retain talented employees and align stockholder and employee interests. In June 2019, stockholders approved an amendment and restatement of the Amended and Restated 2004 Equity Incentive Plan as the 2019 Equity Incentive Plan (the "2019 Plan") and approved an additional 700,000 shares, available for future grants (in addition to the 9,701,192 shares provided under the Prior Plan). In June 2021, stockholders approved an additional 450,000 shares for future grants. The 2019 Plan provides for the grant of incentive stock options, non-statutory stock options, RSAs restricted stock units ("RSUs"), stock appreciation rights, performance stock units, performance shares, and other stock or cash awards.

The Company issued 4,085 PSUs to a non-employee director during the three months ended June 30, 2021. The Company's Board of Directors granted its executive officers, senior management and certain employees 82,549 and 171,137 performance stock units ("PSUs") during the three and six months ended June 30, 2021. The PSUs granted in the three and six months ended June 30, 2021 vest subject to continued service and the Company's achievement of certain operational goals for the 2021 fiscal year related to product milestones, sales and commercial milestones and certain cost reduction targets.

The Company issued 29,361 RSUs to its non-employee directors during the three months ended June 30, 2021. The Company's Board of Directors also granted its executive officers and senior management 73,186 and 129,783 RSUs and 103,466 and

172,139 non-qualified stock options ("NQs") during the three and six months ended June 30, 2021, respectively. The RSUs and NQs vest over four years with one-fourth vesting on the first anniversary of the vesting commencement date of January 1, 2021 and 1/36th of the underlying shares vesting each month thereafter.

On September 30, 2019, the Company's Board awarded its new CEO, David H. Mowry, 67,897 shares, which were scheduled to vest over four years from 2019 through 2022 (the 2019 tranche is 15% of the award, or 10,185 PSUs; the 2020 tranche is 25% of the award, or 16,974 PSUs; the 2021 tranche is 30% of the award, or 20,369 PSUs; the 2022 tranche is 30% of the award, or 20,369 PSUs). These PSUs are subject to certain performance-based vesting criteria related to the achievement of financial metrics included in the Board approved annual budgets for the years 2019 through 2022. As of June 30, 2021, the 2019, 2020 and 2021 tranches met the criteria for measurement and recognition. 8,657 shares of the 2019 tranche vested during the three months ended March 31, 2020. The 2020 tranche did not vest in accordance with the initial terms, however, during the quarter ending June 30, 2021, the Company's Board of Directors approved the vesting of Mr. Mowry's 2020 PSU tranche. Upon this modification to the vesting terms of the 2020 PSU tranche, the Company recognized $0.5 million of stock-based compensation expense in the quarter ending June 30, 2021.

Under the 2019 Plan, the Company issued 92,103 and 214,797 shares of common stock during the three and six months ended June 30, 2021, in conjunction with stock options exercised and the vesting of RSUs and PSUs, net of shares withheld for employee taxes.

As of June 30, 2021, the unrecognized compensation cost, net of expected forfeitures, was $2.0 million for stock options, which will be recognized over an estimated weighted-average remaining amortization period of 3.6 years. The unrecognized compensation cost, net of expected forfeitures, for stock awards, including performance-based awards, was $16.1 million, which will be recognized over an estimated weighted-average remaining amortization period of 2.0 years. The actual expense recorded in the future may vary based on a number of factors, including, actual forfeitures experienced and the degree of achievement of the performance goals related to the PSUs granted.

Activity under the 2019 Plans is summarized as follows:

		Options Outstanding			
	Shares Available for Grant	**Number of Stock Options Outstanding**	**Weighted-Average Exercise Price**	**Weighted Average Remaining Term (in Years)**	**Aggregate Intrinsic Value (in Millions)**
Balance, December 31, 2020	1,085,170	217,007	$ 22.35	3.75	$ 1.47
Additional shares reserved	450,000	—	$ —		
Awards granted	(354,735)	—	$ —		
Options granted	(172,139)	172,139	$ 30.71		
Options exercised	—	(53,598)	$ 23.34		
Stock awards canceled / forfeited / expired	212,571	—	$ —		
Options canceled / forfeited / expired	16,224	(16,224)	$ 33.27		
Balance, June 30, 2021	1,237,091	319,324	$ 26.14	5.13	$ 7.34

	Stock Awards Outstanding		
	Number of Awards Outstanding	**Weighted Average Grant Date Fair Value per Share**	**Aggregate Intrinsic Value (in Millions)**
Balance, December 31, 2020	779,757	$ 23.96	$ 18.80
Stock awards granted	354,735	$ 31.48	
Awards released	(161,199)	$ 22.33	
Stock awards canceled / forfeited / expired	(212,571)	$ 28.00	
Balance, June 30, 2021	760,722	$ 26.68	$ 7.34

Stock-based Compensation Expense

Stock-based compensation expense by department recognized during the three and six months ended June 30, 2021 and 2020 was as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Cost of revenue	$ 434	$ 743	$ 578	$ 1,033
Sales and marketing	522	1,251	1,243	1,970
Research and development	307	769	608	1,090
General and administrative	1,656	1,332	2,336	1,982
Total stock-based compensation expense	$ 2,919	$ 4,095	$ 4,765	$ 6,075

Note 9. Net Income (Loss) Per Share

On January 1, 2021, the Company adopted the accounting standard update to simplify the accounting for convertible debt instruments. The Company now uses the if converted method for its Convertible notes in calculating the diluted net income per share, and includes the effect of potential share settlement for the Convertible notes, if the effect is dilutive.

Basic earnings per share ("EPS") is computed based on the weighted average number of shares of common stock outstanding during the period. Diluted EPS is computed based on the weighted average number of shares of common stock plus the effect of dilutive potential common shares outstanding during the period using the treasury stock method or the if-converted method. Dilutive potential common shares include outstanding stock options, stock awards, performance stock awards, and conversion shares under the Convertible notes. The diluted EPS is computed with the assumption that the Company will settle the convertible debt in shares, rather than cash.

As of June 30, 2021, the Company's Convertible notes were potentially convertible into 4,167,232 shares of common stock. The Company used the if converted stock method to calculate the potential dilutive effect of the conversion spread on diluted net income per share, for the three and six months ended June 30, 2021.

The denominator for diluted net income per share does not include any effect from the capped call transactions the Company entered into concurrently with the issuance of the Convertible notes, as this effect would be anti-dilutive. In the event of conversion of a Convertible note, shares delivered to the Company under the capped call will offset the dilutive effect of the shares that the Company would issue under the Convertible notes.

For the three and six months ended June 30, 2020, basic loss per common share and diluted loss per common share are the same as inclusion of any potentially issuable shares would be anti-dilutive.

The following table sets forth the computation of basic and diluted net income (loss) and the weighted average number of

shares used in computing basic and diluted net income (loss) per share (in thousands, except per share data):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Numerator:				
Net income (loss) used in calculating net income (loss) per share, basic	$ 7,746	$ (11,394)	$ 7,387	$ (23,808)
Interest expense on Convertible notes, net of tax	758	—	740	—
Amortization of debt issuance cost, net of tax	209	—	204	—
Net income used in calculating net income per share, diluted	$ 8,713	$ (11,394)	$ 8,331	$ (23,808)
Denominator:				
Weighted average shares of common stock outstanding used in computing net income (loss) per share, basic	17,862	17,055	17,815	15,744
Dilutive effect of incremental shares and share equivalents:				
Convertible notes	4,167	—	2,625	—
Options	65	—	63	—
RSUs	259	—	270	—
PSUs	77	—	64	—
ESPP	23	—	18	—
Weighted average shares of common stock outstanding used in computing net income (loss) per share, diluted	22,453	17,055	20,855	15,744
Net income (loss) per share:				
Net income (loss) per share, basic	$ 0.43	$ (0.67)	$ 0.41	$ (1.51)
Net income (loss) per share, diluted	$ 0.39	$ (0.67)	$ 0.40	$ (1.51)

The following numbers of shares outstanding, prior to the application of the if converted stock method, were excluded from the computation of diluted net income (loss) per common share for the periods presented because including them would have had an anti-dilutive effect (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Capped call (1)	4,167	—	4,167	—
Options to purchase common stock	189	231	143	253
Restricted stock units	11	803	2	736
Performance stock units	—	71	—	145
Employee stock purchase plan shares	—	58	—	58
Total	4,367	1,163	4,312	1,192

(1) The Company entered into capped call transactions with certain financial institutions, which are generally designated to reduce common stock dilution upon conversion of the Convertible notes. The capped call transactions are excluded from the computation of diluted net income (loss) per common share as their effect would be anti-dilutive.

Note 10. Income Taxes

For the three and six months ended June 30, 2021, the Company's income tax expense was $0.1 million and $0.4 million, respectively, compared to $0.5 million for both three and six months ended June 30, 2020.

The Company's income tax expense for the three and six months ended June 30, 2021 is due primarily to income taxes in foreign jurisdictions. The PPP loan forgiveness recognized during the three months ended June 30, 2021 is excluded from taxable income under Section 1106(i) of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The Company continues to maintain a full valuation allowance on its U.S. deferred tax assets.

On March 27, 2020, the U.S. federal government enacted the CARES Act, which changed several of the existing U.S. corporate income tax laws by, among other things, increasing the amount of deductible interest, allowing companies to carry back certain

Net Operating Losses (“NOLs”) and increasing the amount of NOLs that corporations can use to offset income. The CARES Act did not have a material impact on the Company's income tax provision, deferred tax assets and liabilities, and related taxes payable. The Company is currently assessing the future implications of these provisions within the CARES Act on the Company's consolidated financial statements, but does not expect the impact to be material.

Note 11. Leases

The Company is a party to certain operating and finance leases for vehicles, office space and storage facilities. The Company’s operating leases consist of office space, as well as storage facilities and finance leases consist of automobiles. The Company’s leases generally have remaining terms of one to ten years, some of which include options to renew the leases for up to five years. The Company leases space for operations in the United States, Japan, Belgium, France and Spain. In addition to the above facility leases, the Company also routinely leases automobiles for certain sales and field service employees under finance leases.

The Company determines if a contract contains a lease at inception. Operating lease assets and liabilities are recognized at the lease commencement date. Operating lease liabilities represent the present value of lease payments not yet paid. Operating lease assets represent the right to use an underlying asset and are based upon the operating lease liabilities adjusted for prepayments or accrued lease payments, initial direct costs, lease incentives, and impairment of operating lease assets. To determine the present value of lease payments not yet paid, the Company estimates the incremental secured borrowing rates corresponding to the maturities of the leases. The Company based the rate estimates on prevailing financial market conditions, credit analysis, and management judgment.

The Company recognizes expense for these leases on a straight-line basis over the lease term. Additionally, tenant incentives used to fund leasehold improvements are recognized when earned and reduce the Company’s right-of-use (“ROU”) asset related to the lease. These are amortized through the ROU asset as reductions of expense over the lease term.

Supplemental balance sheet information related to leases was as follows (in thousands):

Leases	Classification	June 30, 2021	December 31, 2020
Assets			
Right-of-use assets	Operating lease assets	$ 15,919	$ 17,076
Finance lease	Property and equipment, net (1)	602	467
Total leased assets		$ 16,521	$ 17,543

(1) Finance lease assets included in Property and equipment, net, in the condensed consolidated balance sheets.

Liabilities		June 30, 2021	December 31, 2020
Operating lease liabilities			
Operating lease liabilities, current	Operating lease liabilities	$ 2,422	$ 2,260
Operating lease liabilities, non-current	Operating lease liabilities, net of current portion	14,705	15,950
Total Operating lease liabilities		$ 17,127	$ 18,210
Finance lease liabilities			
Finance lease liabilities, current	Accrued liabilities (1)	$ 429	$ 370
Finance lease liabilities, non-current	Other long-term liabilities	288	241
Total Finance lease liabilities		$ 717	$ 611

(1) Finance lease liabilities included in Accrued liabilities in the condensed consolidated balance sheets.

Lease costs during the three and six months ended June 30, 2021 and 2020 (in thousands):

Lease costs		Three Months Ended June 30, 2021	Three Months Ended June 30, 2020	Six Months Ended June 30, 2021	Six Months Ended June 30, 2020
Finance lease cost	Amortization expense	$ 110	$ 277	$ 237	$ 425
Finance lease cost	Interest for finance lease	$ 14	$ 16	$ 28	$ 35
Operating lease cost	Operating lease expense	$ 881	$ 728	$ 1,759	$ 1,456

Cash paid for amounts included in the measurement of lease liabilities during the six months ended June 30, 2021 and 2020 was as follows (in thousands):

Cash paid for amounts included in the measurement of lease liabilities		Six Months Ended June 30, 2021	Six Months Ended June 30, 2020
Operating cash flow	Finance lease	$ 27	$ 35
Financing cash flow	Finance lease	$ 211	$ 380
Operating cash flow	Operating lease	$ 1,549	$ 1,454

Facility leases

Maturities of facility leases were as follows as of June 30, 2021 (in thousands):

As of June 30, 2021	Amount
Remainder of 2021	$ 1,551
2022	3,152
2023	3,188
2024	2,879
2025	2,875
2026 and thereafter	6,308
Total lease payments	**19,953**
Less: imputed interest	2,826
Present value of lease liabilities	**$ 17,127**

Vehicle Leases

As of June 30, 2021, the Company was committed to minimum lease payments for vehicles leased under long-term non-cancelable finance leases as follows (in thousands):

As of June 30, 2021	Amount
Remainder of 2021	$ 241
2022	379
2023	125
2024	28
Total lease payments	773
Less: imputed interest	56
Present value of lease liabilities	$ 717

Weighted-average remaining lease term and discount rate, as of June 30, 2021, were as follows:

Lease Term and Discount Rate	June 30, 2021
Weighted-average remaining lease term (years)	
Operating leases	6.3
Finance leases	1.7
Weighted-average discount rate	
Operating leases	4.7 %
Finance leases	6.5 %

Lessor Information related to the Company's system leasing

During fiscal year ended December 31, 2020, the Company entered into leasing transactions, in which the Company is the lessor, offered through the Company's membership program. The Company's leases for equipment rentals were all accounted for as operating leases during the second and third quarters of 2020.

During the fourth quarter ended December 31, 2020, certain of the membership program agreements were amended, granting the customers the exclusive right and option to purchase the leased system from the Company, at any time during the period of 12 months from signing the amended agreement. For contracts signed under the amended membership agreement, the Company classified and accounted for the arrangements as sales-type leases as of December 31, 2020, as the Company determined it is reasonably certain that the customer will exercise the purchase option.

For the sales-type leases, the net investment of the Company's lease receivable is measured at the commencement date and is included in the condensed consolidated balance sheets as a component of other current assets and prepaid expenses. As of December 31, 2020, the Company recorded $0.7 million of revenue for the sales-type leases in the condensed consolidated statement of operations and the related lease receivable in other current assets of the condensed consolidated balance sheet. There was no revenue recognized from the sales-type lease arrangement for the three and six months ended June 30, 2021 and 2020, respectively. During the three and six months ended June 30, 2021, the Company received a full payment of $0.1 million and $0.2 million from a customer who exercised its purchase option. As of June 30, 2021, the lease receivable balance included in other current assets of the condensed consolidated balance sheet was $0.5 million

Equipment lease revenue for operating lease agreements is recognized over the life of the lease. The amount of operating lease income included in Product revenue in the accompanying condensed consolidated statements of operations for the three and six months ended June 30, 2021 was zero and $0.1 million, respectively.

Note 12. Contingencies

The Company is named from time to time as a party to other legal proceedings, product liability, commercial disputes, employee disputes, and contractual lawsuits in the normal course of business. A liability and related charge are recorded to earnings in the Company's consolidated financial statements for legal contingencies when the loss is considered probable and the amount can be reasonably estimated. The assessment is re-evaluated each accounting period and is based on all available information, including discussion with outside legal counsel. If a reasonable estimate of a known or probable loss cannot be made, but a range of probable losses can be estimated, the low-end of the range of losses is recognized if no amount within the range is a better estimate than any other. If a material loss is reasonably possible, but not probable and can be reasonably estimated, the estimated loss or range of loss is disclosed in the notes to the consolidated financial statements. The Company expenses legal fees as incurred.

InMode Ltd. filed a complaint with the United States International Trade Commission alleging that Ilooda, Co., Ltd's Secret RF fractional radiofrequency microneedling system, distributed in the United States by the Company, infringes U.S. Patent No. 10,799,285 ("285 patent"). The Company intends to vigorously defend against this lawsuit and, based on a preliminary investigation, believes that the Company has a strong defense and that the patent claim at issue is likely invalid in view of prior art. Based on the current information available to the Company, it believes that any possible loss will not be material. If, following a successful third-party action for infringement, the Company cannot obtain a license for the Company's products, it may have to stop selling the applicable products.

As of June 30, 2021 and December 31, 2020, the Company had accrued $0.9 million and $0.4 million, respectively, related to various pending commercial and product liability lawsuits. The Company does not believe that a material loss in excess of accrued amounts is reasonably likely.

Note 13. Debt

Convertible notes, net of unamortized debt issuance costs

In March 2021, the Company issued $138.3 million aggregate principal amount of convertible senior notes due on March 15, 2026 in a private placement offering. The Convertible notes bear interest at a rate of 2.25% per year payable semiannually in arrears on March 15 and September 15 of each year, beginning on September 15, 2021. Upon conversion, the Convertible notes will be convertible into cash, shares of the Company's common stock or a combination thereof, at the Company's election. The Convertible notes are presented as Convertible notes, net of unamortized debt issuance costs, on the condensed consolidated balance sheet. Proceeds from the offering were $133.6 million, net of issuance costs, including initial purchasers fees.

Initially, each $1,000 principal amount of Notes was convertible into 30.1427 shares of the Company's common stock at a conversion price of $33.18 per share. The conversion rate for the Convertible notes is subject to adjustment for certain events as set forth in the Indenture governing the Convertible notes. The Convertible notes will mature on March 15, 2026, unless earlier converted, redeemed, or repurchased in accordance with the terms of the Convertible notes. No sinking fund is provided for the Notes. As of June 30, 2021, the net carrying amount of the Company's Convertible notes was 133.9 million and the unamortized debt issuance costs were $4.4 million.

Holders may convert their Notes at their option prior to the close of business on the business day immediately preceding December 15, 2025, in multiples of $1,000 principal amount, only under the following circumstances:

- During any fiscal quarter commencing after the fiscal quarter ending on June 30, 2021 (and only during such fiscal quarter), if the last reported sale price of the common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on and including, the last trading day of the immediately preceding fiscal quarter, is greater than or equal to 130% of the conversion price for the Convertible notes on each applicable trading day;
- During the five-business day period after any five consecutive trading day period (the "measurement period") in which the "trading price" per $1,000 principal amount of Convertible notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of the Company's common stock and the conversion rate on each such trading day;
- The Company calls such Convertible notes for redemption, at any time prior to the close of business on the second scheduled trading day immediately preceding the redemption date; or
- Upon the occurrence of specified corporate events.

On or after December 15, 2025, and until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert all or any portion of their Notes, in multiples of $1,000 principal amount, at the option of the holder regardless of the foregoing circumstances.

The circumstances described in the first bullet of the paragraph above were met during the second quarter of 2021 as the Company's stock traded at a price in excess of the conversion price, and as a result, the Notes are convertible at the option of the holder from July 1, 2021 until September 30, 2021. Upon any conversion of the Convertible notes, the Company would be required to pay or deliver, as the case may be, cash, shares of its common stock, or a combination of cash and shares of its common stock, at the Company's election with respect to such conversion. To the extent there are any conversions during the period from July 1, 2021 until September 30, 2021, the Company intends to settle such conversions in shares of common stock, therefore, as of June 30, 2021, the Convertible notes have been included as Long-term debt on its condensed consolidated balance sheet.

The Company may not redeem the Convertible notes prior to March 20, 2024. On or after March 20, 2024, the Company may redeem for cash all or any portion of the Notes, at the Company's option, if the last reported sale price of the Company's common stock has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading day period (including the last trading day of such period) ending on, and including, the trading day immediately preceding the date on which the Company provides notice of redemption at a redemption price equal to 100% of the principal amount of the Notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. If the Company elects to redeem fewer than all of the outstanding Notes, at least $50.0 million aggregate principal amount of Notes must be outstanding and not subject to redemption as of the relevant redemption notice date.

If a fundamental change occurs, note holders have the option to require the Company to repurchase any portion or all of their Convertible notes in $1,000 principal increments for cash. The price for such repurchase is calculated as 100% of the principal amounts of Notes, plus accrued and unpaid interest to the day immediately preceding the Fundamental Change repurchase date.

Additionally, holders of the Notes who convert in connection with a fundamental change are, under certain circumstances, entitled to an increase in conversion rate.

The Convertible notes are general senior unsecured obligations that rank senior to any of the Company's indebtedness that is explicitly subordinated to the Notes. The Notes have equal rank in right of payment with all existing and future unsecured indebtedness that is not subordinated to the Notes. The Notes will be junior to any of the Company's secured indebtedness to the extent of the value of the assets securing such indebtedness. The Notes do not contain any financial or operating covenants or any restrictions on the payment of dividends, the issuance of other indebtedness or the issuance or repurchase of securities by the Company.

The estimated fair value of the Convertible notes was approximately $226.4 million as of June 30, 2021, which the Company determined through consideration of market prices. The fair value measurement is classified as Level 2, as defined in Note 3.

The following table presents outstanding principal amount and carrying value of the Convertible notes (in thousands):

	June 30, 2021	December 31, 2020
Outstanding principal amount	$ 138,250	$ —
Unamortized debt issuance costs	(4,450)	—
Carrying Value	$ 133,800	$ —

In connection with issuance of the Convertible notes, the Company entered into capped call transactions with certain option counterparties. The capped call transactions are generally intended to reduce the potential dilution of the Company's common stock upon any conversion or settlement of the Notes or to offset any cash payment the Company is required to make in excess of the principal amount upon conversion of the Notes, as the case may be, with such reduction or offset subject to a cap based on the cap price. If the market price per share of the Company's common stock exceeds the cap price of the capped calls transaction, then the Company's stock would experience some dilution and/or the capped call would not fully offset the potential cash payments, in each case to the extent the then-market price per share of its common stock exceeds the cap price. Under the capped call transactions, the Company purchased from the option counterparties capped call options that in the aggregate relate to the total number of shares of the Company's common stock underlying the Convertible notes, with a strike price equal to the conversion price of the Convertible notes and with an initial cap price equal to $45.5350, which represents a 75% premium over the last reported sale price of the Company's common stock of $26.02 per share on March 4, 2021, with certain adjustments to the settlement terms that reflect standard anti-dilution provisions. The capped call transactions expire over 40 consecutive scheduled trading days ended on March 12, 2026. The capped calls were purchased for $16.1 million. The Company evaluated the capped call transaction under authoritative accounting guidance and determined that it should be accounted for as a separate transaction and classified as a net reduction to Additional paid-in capital within stockholders' equity with no recurring fair value measurement recorded.

The Company early adopted ASU 2020-6, Debt—Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging— Contracts in Entity's Own Equity (Subtopic 815-40). In accordance with Subtopic 470-20 and 815-40, as revised by ASU 2020-6, the Company records the Convertible notes in long-term debt with no separation between the Notes and the conversion option. Each reporting period, the Company will determine whether any criteria is met for the note holders to have the option to redeem the Notes early, which could result in a change in the classification of the Notes to current liabilities.

Debt Issuance Cost

The issuance costs related to the Convertible notes are presented in the condensed consolidated balance sheet as a direct deduction from the carrying amount of the Convertible notes. During the six months ended June 30, 2021, the Company incurred direct costs associated with the issuance of Convertible notes of $4.7 million.

The issuance costs are amortized using an effective interest method basis over the term of the Convertible notes and accordingly the Company recorded approximately $0.2 million and $0.3 million of amortization of debt issuance costs during the three and six months ended June 30, 2021.

The effective interest rate on the Convertible notes is 2.97%. Interest expense for the three and six months ended June 30, 2021 totaled approximately $1.0 million and $1.2 million, respectively, of which $0.8 million and $1.0 million, respectively, relate to accruing the semiannual interest payment with the remaining balance relating to the amortization of debt issuance costs.

Loan and Security Agreement

On May 30, 2018, the Company and Wells Fargo Bank, N.A. (“Wells Fargo”) entered into a Loan and Security Agreement (the “Wells Fargo Revolving Line of Credit”) in the original principal amount of $25.0 million.

On July 9, 2020, the Company terminated its undrawn revolving line of credit with Wells Fargo and subsequently entered into a Loan and Security Agreement with Silicon Valley Bank for a four-year secured revolving loan facility (“SVB Revolving Line of Credit”) in an aggregate principal amount of up to $30.0 million. The SVB Revolving Line of Credit matures on July 9, 2024.

In order to draw on the full amount of the SVB Revolving Line of Credit, the Company must satisfy certain liquidity ratios. If the Company is unable to meet these liquidity ratios, then availability under the revolving line is calculated as 80% of the Company’s qualifying accounts receivable. The proceeds of the revolving loans may be used for general corporate purposes. The Company’s obligations under the Loan and Security Agreement with Silicon Valley Bank are secured by substantially all of the assets of the Company. Interest on principal amount outstanding under the revolving line shall accrue at a floating per annum rate equal to the greater of either 1.75% above the Prime Rate or five percent (5.0%). The Company paid a non-refundable revolving line commitment fee of $0.3 million, on the effective date of the Loan and Security Agreement with Silicon Valley Bank of July 9, 2020, and the Company is required to pay an anniversary fee of $0.3 million on each twelve-month anniversary of the effective date of the Loan and Security Agreement.

The Loan and Security Agreement with Silicon Valley Bank contains customary affirmative covenants, such as financial statement reporting requirements and delivery of borrowing base certificates, as well as customary covenants that restrict the Company’s ability to, among other things, incur additional indebtedness, sell certain assets, guarantee obligations of third parties, declare dividends, or make certain distributions, and undergo a merger or consolidation or certain other transactions. The Loan and Security Agreement also contains certain financial covenants, including maintaining a quarterly minimum revenue of $90.0 million, determined in accordance with GAAP on a trailing twelve-month basis.

On March 4, 2021, the Loan and Security Agreement dated July 9, 2020 was amended to (i) permit the Company to issue the Convertible notes and perform its obligations in connection therewith, and (ii) permit the Capped Call transactions.

As of June 30, 2021, the Company had not drawn on the SVB Revolving Line of Credit and the Company is in compliance with all financial covenants of the SVB Revolving Line of Credit.

The Paycheck Protection Program (PPP) Loan

On April 22, 2020, the Company received loan proceeds of $7.1 million pursuant to the Paycheck Protection Program (the “PPP”) under the CARES Act. The loan, which is in the form of a promissory note dated April 21, 2020, between the Company and Silicon Valley Bank as the lender, matures on April 21, 2022 and bears interest at a fixed rate of 1.00% per annum, payable monthly commencing September 2021. There is no prepayment penalty. Under the terms of the PPP, all or a portion of the principal may be forgiven if the loan proceeds are used for qualifying expenses as described in the CARES Act, such as payroll costs, benefits, rent, and utilities.

The PPP loan and related accrued interest were forgiven under the provisions of the CARES Act, and the $7.2 million gain on forgiveness of PPP loan was recorded as Gain on extinguishment of PPP loan in the condensed consolidated statement of operations for the three and six months ended June 30, 2021.

Note 14. Segment reporting

Segment reporting is based on the “management approach,” following the method that management organizes the Company’s reportable segments for which separate financial information is made available to, and evaluated regularly by, the chief operating decision maker in allocating resources and in assessing performance. The Company’s chief operating decision makers ("CODM") are its Chief Executive Officer ("CEO") and Chief Financial Officer (“CFO”), who make decisions on allocating resources and in assessing performance. The CEO and CFO review the Company's consolidated results as one operating segment. In making operating decisions, the CODM primarily considers consolidated financial information, accompanied by disaggregated information about revenues by geography and product. All of the Company’s principal operations and decision-making functions are located in the U.S. The Company’s CODM view its operations, manages its business, and uses one measurement of profitability for the one operating segment - which sells aesthetic medical equipment and services, and distributes skincare products, to qualified medical practitioners. Substantially all of the Company’s long-lived assets are located in the U.S.

The following table presents a summary of revenue by geography for the three and six months June 30, 2021 and 2020 (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Revenue mix by geography:				
United States	$ 22,972	$ 10,915	$ 41,816	$ 24,699
Japan	17,421	8,517	33,976	15,679
Asia, excluding Japan	3,676	1,846	6,079	5,075
Europe	4,628	1,325	9,052	4,141
Rest of the World, other than United States, Asia and Europe	9,892	3,766	17,334	9,014
Total consolidated revenue	$ 58,589	$ 26,369	$ 108,257	$ 58,608
Revenue mix by product category:				
Products	$ 35,567	$ 15,541	$ 63,887	$ 36,500
Consumables	4,433	1,426	7,358	3,959
Skincare	11,812	4,778	24,118	7,677
Total product revenue	51,812	21,745	95,363	48,136
Service	6,777	4,624	12,894	10,472
Total consolidated revenue	$ 58,589	$ 26,369	$ 108,257	$ 58,608

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

This Management's Discussion and Analysis should be read in conjunction with the Company's financial condition and results of operations in conjunction with the Company's unaudited condensed consolidated financial statements and notes thereto included in Part I, Item 1 of this Quarterly Report on Form 10-Q and the Company's audited financial statements and notes thereto for the year ended December 31, 2020, included in its annual report on Form 10-K filed with the U.S. Securities and Exchange Commission ("SEC") on March 23, 2021.

Unless otherwise indicated, all results presented are prepared in a manner that complies, in all material respects, with accounting principles generally accepted in the United States of America ("GAAP"). Additionally, unless otherwise indicated, all changes identified for the current-period results represent comparisons to results for the prior corresponding fiscal period.

Special note regarding forward-looking statements

This report contains forward-looking statements that involve risks and uncertainties. The Company's actual results could differ materially from those discussed in the forward-looking statements. The statements contained in this report that are not purely historical are forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended, ("the Exchange Act"). Forward-looking statements are often identified by the use of words such as, but not limited to, "anticipate," "believe," "can," "continue," "could," "estimate," "expect," "intend," "may," "plan," "project," "seek," "should," "strategy," "target," "will," "would" and similar expressions or variations intended to identify forward- looking statements. These statements are based on the beliefs and assumptions of the Company's management based on information currently available to management. Such forward-looking statements are subject to risks, uncertainties and other important factors that could cause actual results and the timing of certain events to differ materially from future results expressed or implied by such forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those identified below and those discussed in the section titled "Risk Factors" included under Part II, Item 1A below.

Furthermore, such forward-looking statements speak only as of the date of this report. Except as required by law, the Company undertakes no obligation to update any forward-looking statements to reflect events or circumstances after the date of such statements.

Introduction

The Management's Discussion and Analysis, or MD&A, is organized as follows:

- ***Executive Summary.*** This section provides a general description and history of the Company's business, a brief discussion of the its product lines and the opportunities, trends, challenges and risks the Company focuses on in the operation of its business.
- ***Critical Accounting Policies and Estimates.*** This section describes the key accounting policies that are affected by critical accounting estimates.
- ***Results of Operations.*** This section provides the Company's analysis and outlook for the significant line items on its condensed consolidated statements of operations.
- ***Liquidity and Capital Resources.*** This section provides an analysis of the Company's liquidity and cash flows, as well as a discussion of its Commitments that existed as of June 30, 2021.

Executive Summary

Company Description

The Company is a leading medical device company specializing in the research, development, manufacture, marketing and servicing of light and other energy-based aesthetics systems for practitioners worldwide. In addition to internal development of products, the Company distributes third party sourced products under the Company's own brand names. The Company offers easy-to-use products which enable practitioners to perform safe and effective aesthetic procedures, including treatment for body contouring, skin resurfacing and revitalization, tattoo removal, removal of benign pigmented lesions, vascular conditions, hair removal, toenail fungus and women's intimate health. The Company's platforms are designed to be easily upgraded to add additional applications and hand pieces, which provide flexibility for the Company's customers as they expand their practices.

In addition to systems and upgrade revenue, the Company generates revenue from the sale of post warranty service contracts, providing services for products that are out of warranty, hand piece refills and other per procedure related revenue on select systems and distribution of third-party manufactured skincare products. The Company also expands its revenues from sales of third-party skincare products by utilizing its network and relationships with physicians and practitioners.

The Company's ongoing research and development activities primarily focus on developing new products, as well as improving and enhancing the Company's portfolio of existing products. The Company also explores ways to expand the Company's product offerings through alternative arrangements with other companies, such as distribution arrangements. The Company introduced *Juliet*, a product for women's intimate health, in December 2017, *Secret RF*, a fractional RF microneedling device for skin revitalization, in January 2018, *enlighten SR* in April 2018, *truSculpt iD* in July 2018, *excel V+* in February 2019 *truSculpt flex* in June 2019, Secret PRO in July 2020 and excel V+III during the fourth quarter of 2020.

The Company's corporate headquarters and U.S. operations are located in Brisbane, California, where the Company conducts manufacturing, warehousing, research and development, regulatory, sales and marketing, service, and administrative activities. The Company markets sells and services the Company's products through direct sales and service employees in North America (including Canada), Australia, Austria, Belgium, France, Germany, Hong Kong, Japan, Spain, Switzerland and the United Kingdom. Sales and Services outside of these direct markets are made through a worldwide distributor network in over 42 countries.

Products and Services

The Company derives revenue from the sale of Products and Services. Product revenue includes revenue from the sale of systems, hand pieces and upgrade of systems (collectively "Systems" revenue), replacement hand pieces, *truSculpt iD* cycle refills, and *truSculpt flex* cycle refills, as well as single use disposable tips applicable to *Juliet* and *Secret RF* ("Consumables" revenue), the sale of third party manufactured skincare products ("Skincare" revenue); and the leasing of equipment through a membership program. A system consists of a console that incorporates a universal graphic user interface, a laser and or other energy-based module, control system software and high voltage electronics, as well as one or more hand pieces. However, depending on the application, the laser or other energy-based module is sometimes contained in the hand piece such as with the Company's *Pearl and Pearl Fractional* applications instead of within the console.

The Company offers customers the ability to select the system that best fits their practice at the time of purchase and then to cost-effectively add applications to their system as their practice grows. This provides customers the flexibility to upgrade their systems whenever they choose and provides the Company with a source of additional Systems revenue. The Company's primary system platforms include *excel*, *enlighten*, *Juliet*, *Secret RF*, *truSculpt* and *xeo*.

Skincare revenue relates to the distribution of ZO's skincare products in Japan. The skincare products are purchased from a third-party manufacturer and sold to medical offices and licensed physicians. The Company acts as the principal in this arrangement, as the Company determines the price to charge customers for the skincare products and controls the products before they are transferred to the customer.

Service revenue includes prepaid service contracts, *enlighten* installation, customer marketing support and labor on out-of-warranty products.

Significant Business Trends

The Company believes that its ability to grow revenue will be primarily dependent on the following:

- continuing to expand the Company's product offerings, both through internal development and sourcing from other vendors;
- ongoing investment in the Company's global sales and marketing infrastructure;
- use of clinical results to support new aesthetic products and applications;
- enhanced luminary development and reference selling efforts (to develop a location where Company's products can be displayed and used to assist in selling efforts);
- customer demand for the Company's products;
- consumer demand for the application of the Company's products;
- marketing to physicians in the core dermatology and plastic surgeon specialties, as well as outside those specialties; and
- generating recurring revenue from the Company's growing installed base of customers through the sale of system upgrades, services, hand piece refills, *truSculpt* cycles, skincare products and replacement tips for *Juliet* and *Secret RF* products.

For a detailed discussion of the significant business trends impacting its business, please see the section titled “Results of Operations” below.

Factors that May Impact Future Performance

The Company’s industry is impacted by numerous competitive, regulatory and other significant factors. The Company’s industry is highly competitive and the Company’s future performance depends on the Company’s ability to compete successfully. Additionally, the Company’s future performance is dependent upon the ability to continue to expand the Company’s product offerings with innovative technologies, obtain regulatory clearances for the Company’s products, protect the proprietary technology of the products and manufacturing processes, manufacture the products cost-effectively, and successfully market and distribute the products in a profitable manner. If the Company fails to execute on the aforementioned initiatives, the Company’s business would be adversely affected.

The Company supports any reasonable action that helps ensure patient safety going forward. The Company has a robust, multi-functional process that reviews its promotional claims and materials to ensure they are truthful, not misleading, fair and balanced, and supported by sound scientific evidence.

A detailed discussion of these and other factors that could impact the Company’s future performance are provided in (1) the Company’s Annual Report on Form 10-K for the year ended December 31, 2020- Part I, Item 1A “Risk Factors,” and (2) other announcements the Company makes from time to time.

Impact of COVID-19 on Company’s business and operations

In March 2020, the World Health Organization declared the COVID-19 outbreak a pandemic. The COVID-19 outbreak, and lately the Delta variant, has negatively affected the United States and global economies. The spread of the coronavirus, which caused a broad impact in 2020 globally, including restrictions on travel, shifting work force to work remotely and quarantine policies put into place by businesses and governments, had a material economic effect on the Company’s business during the year ended December 31, 2020. Notably, healthcare facilities in many countries effectively banned elective procedures. Many of the Company’s products are used in aesthetic elective procedures and as such, the bans on elective procedures substantially reduced the Company’s sales and marketing efforts in the early months of the pandemic and led the Company to implement cost control measures. Although the Company’s operation and results of operations have significantly improved as the economic outlook due to the COVID-19 pandemic improves in 2021, the COVID-19 outbreak continues to be fluid and the aftermath of the business and economic disruptions due to the COVID-19 is still uncertain, making it difficult to forecast the final impact it could have on the Company’s future operations, including disruptions in the Company's supply chain and contract manufacturing operations. The Company cannot presently predict the scope and severity of any impacts in future periods from the business shutdowns or disruptions due to the COVID-19 pandemic, but the impact on economic activity including the possibility of recession or financial market instability could have a material adverse effect on the Company’s business, revenue, operating results, cash flows and financial condition.

The Company continues to assess whether any impairment of its goodwill or its long-lived assets has occurred, and has determined that no charges other than an impairment loss of $0.2 million on capitalized implementation costs of cloud-based CRM software during the six months ended June 30, 2021. The Company’s assumptions about future conditions important to its assessment of potential impairment of its long-lived assets, and goodwill, including the impacts of the COVID–19 pandemic and other ongoing impacts to its business, are subject to uncertainty, and the Company will continue to monitor these conditions in future periods as new information becomes available, and will update its analyses accordingly.

The Company has experienced a significant increase in sales of skincare products under the exclusive distribution agreement with ZO Skin Health, Inc., which allows the Company to sell ZO’s skincare products in Japan. The reason for the increase in skincare products sales may have been the result of changes in customers’ spending habits as customers purchased more aesthetic treatments that were able to be applied at home, due to limitations on in-person aesthetic procedures, social distancing and mask wearing requirements due to the COVID-19 pandemic. Future growth in sales of skincare products depends on customers’ spending habits, which may revert to original spending habits after the COVID-19 pandemic. Such changes may have a material adverse effect on the Company’s revenue, operating results and cash flows.

Critical accounting policies, significant judgments and use of estimates

The preparation of the Company’s consolidated financial statements and related notes requires the Company to make judgments, estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. The Company has based its estimates on historical experience and on various other assumptions that the Company believes to be reasonable under the circumstances. The Company periodically reviews its

estimates and makes adjustments when facts and circumstances dictate. To the extent that there are material differences between these estimates and actual results, its financial condition or results of operations will be affected.

An accounting policy is considered to be critical if it requires an accounting estimate to be made based on assumptions about matters that are highly uncertain at the time the estimate is made, and if different estimates that reasonably could have been used, or changes in the accounting estimates that are reasonably likely to occur periodically, could materially impact the consolidated financial statements. The Company believes that its critical accounting policies reflect the more significant estimates and assumptions used in the preparation of its audited consolidated financial statements.

The accounting policies and estimates that the Company considers to be critical, subjective, and requiring judgment in their application are summarized in “Item 7-Management’s Discussion and Analysis of Financial Condition and Results of Operations” in its Annual Report on Form 10-K for the year ended December 31, 2020 filed with the SEC on March 23, 2021. Except the new policies explained below, there have been no new or material changes to the significant accounting policies discussed in the Company’s Annual Report on Form 10-K that are of significance, or potential significance, to the Company.

The Company established new accounting policies to account for the Convertible notes and related transactions during the first quarter of 2021.

The Company issued $138.3 million of convertible senior notes in a private placement offering on March 5, 2021. The notes bear interest at a rate of 2.25% per year. In accordance with ASU 2020-06, the Company recorded the Notes in long-term debt with no separation between the notes and the conversion option. Each reporting period, the Company will determine whether any criteria are met for the note holders to have the option to redeem the notes early, which will result in a change in the classification of the notes to current liabilities.

The issuance costs related to the Convertible notes are presented in the balance sheet as a direct deduction from the carrying amount of the Convertible notes.

In connection with issuance of the notes, the Company entered into capped call transactions with certain option counterparties. The capped call transactions are generally designated to reduce the potential dilution of the Company's common stock upon any conversion of the notes. The capped calls were purchased for $16.1 million and recorded as a reduction to stockholders’ equity

Basic income (loss) per share of common stock is calculated by dividing net income available to common stockholders by the weighted average number of common shares outstanding for the respective period in accordance with ASC 260. Diluted loss per common share reflects the potential dilution that would occur if contracts to issue common stock were exercised or converted into common stock. See Note 9 the unaudited condensed consolidated financial statements included in Item I, Part 1 of this Quarterly Report on Form 10-Q.

Results of Operations

The following table sets forth selected consolidated financial data for the periods indicated, expressed as a percentage of total net revenue. Percentages in this table and throughout its discussion and analysis of financial condition and results of operations may reflect rounding adjustments.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Net revenue	100 %	100 %	100 %	100 %
Cost of revenue	42 %	56 %	43 %	56 %
Gross margin	58 %	44 %	57 %	44 %
Operating expenses:				
Sales and marketing	31 %	42 %	31 %	44 %
Research and development	8 %	11 %	8 %	12 %
General and administrative	14 %	32 %	15 %	28 %
Total operating expenses	54 %	86 %	54 %	84 %
Income (loss) from operations	4 %	(41)%	3 %	(39)%
Amortization of debt issuance costs	— %	— %	— %	— %
Interest on Convertible notes	(1)%	— %	(1)%	— %
Gain on extinguishment of PPP loan	12 %	— %	7 %	— %
Other income (expense), net	(1)%	— %	(1)%	— %
Income (loss) before income taxes	13 %	(41)%	7 %	(40)%
Income tax expense	— %	2 %	— %	1 %
Net income (loss)	13 %	(43)%	7 %	(41)%

Revenue

The timing of the Company's revenue is significantly affected by the mix of system products, installation, training, consumables and extended contract services. The revenue generated in any given period is also impacted by whether the revenue is recognized over time or upon completion of delivery. For an additional description on revenue, see Note 1 in the notes to consolidated financial statements on the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2020 and Note 7 to the unaudited condensed consolidated financial statements included in Item I, Part 1 of this Quarterly Report on Form 10-Q.

Revenue is recognized upon transfer of control of promised products or services to customers in an amount that reflects the consideration to which the Company expects to be entitled in exchange for promised goods or services. The Company's performance obligations are satisfied either over time or at a point in time. Revenue from performance obligations that are transferred to customers over time accounted for approximately 12% and 18% of the Company's total revenue for the six months ended June 30, 2021 and 2020, respectively. Revenue recognized over time relates to revenue from the Company's extended service contracts and marketing services. Revenue recognized upon delivery is primarily generated by the sales of systems, consumables and skincare.

Total Net Revenue

(Dollars in thousands)	Three Months Ended June 30, 2021	% Change	2020	Six Months Ended June 30, 2021	% Change	2020
Revenue mix by geography:						
North America	$ 26,786	*130 %*	$ 11,622	$ 49,084	*82 %*	$ 26,995
Japan	17,421	*105 %*	8,517	33,976	*117 %*	15,679
Rest of World	14,382	*131 %*	6,230	25,197	*58 %*	15,934
Consolidated total revenue	$ 58,589	*122 %*	$ 26,369	$ 108,257	*85 %*	$ 58,608
North America as a percentage of total revenue	*46 %*		*44 %*	*46 %*		*46 %*
Japan as a percentage of total revenue	*30 %*		*32 %*	*31 %*		*27 %*
Rest of World as a percentage of total revenue	*24 %*		*24 %*	*23 %*		*27 %*
Revenue mix by product category:						
Systems - North America	$ 19,888	*142 %*	$ 8,214	$ 36,673	*97 %*	$ 18,596
Systems – Rest of World (including Japan)	15,680	*114 %*	7,328	27,215	*52 %*	17,904
Total Systems	35,568	*129 %*	15,542	63,888	*75 %*	36,500
Consumables	4,432	*211 %*	1,425	7,357	*86 %*	3,958
Skincare	11,812	*147 %*	4,778	24,118	*214 %*	7,678
Total Products	51,812	*138 %*	21,745	95,363	*98 %*	48,136
Service	6,777	*47 %*	4,624	12,894	*23 %*	10,472
Total Net Revenue	$ 58,589	*122 %*	$ 26,369	$ 108,257	*85 %*	$ 58,608

The Company's total net revenue increased by 122% and 85% in the three and six months periods ended June 30, 2021, respectively, compared to the same periods in 2020, as a result of recovery in the demand of the Company's products and services as the economic outlook due to the COVID-19 pandemic improves.

Revenue by Geography

The Company's North America revenue increased by $15.2 million or 130%, and $22.1 million or 82% in the three and six months ended June 30, 2021, respectively, compared to the same periods in 2020. The increase was due primarily to significant recovery in sales in the North America market as the U.S. economic outlook improved in the first half of 2021 and continuous growth in Japan skincare revenue.

Revenue in Japan increased by $8.9 million or 105%, and $18.3 million or 117% in the three and six month periods ended June 30, 2021, respectively, compared to the same periods in 2020, due to a significant increase in sales of Skincare products.

The Company's Rest of World revenue increased by $8.2 million or 131%, and $9.3 million or 58% in the three and six month periods ended June 30, 2021, respectively, compared to the same periods in 2020. The increase was mostly due to growth in the Company's direct business in Australia and Europe.

Revenue by Product Type

Systems Revenue

Systems revenue in North America increased by $11.7 million or 142%, and $18.1 million or 97% in the three and six month periods ended June 30, 2021, respectively, compared to the same periods in 2020, mainly due to the recovery from the business disruptions caused by the COVID-19 pandemic.

The Rest of the World (including Japan) systems revenue increased by $8.4 million or 114%, and $9.3 million or 52% in the three and six month periods ended June 30, 2021, respectively, compared to the same periods in 2020, primarily due to increased sales in the Company's direct business in Australia and Europe, partially offset by decreased sales from distributors in Middle East and Asian regions.

Consumables Revenue

Consumables revenue increased by $3.0 million or 211%, and $3.4 million or 86% in the three and six month periods ended June 30, 2021, respectively, compared to the same periods in 2020. The increase in consumables revenue was primarily due to the increasing installed base of *truSculpt iD*, *Secret RF*, *truSculpt 3D* and *truSculpt flex*, each of which have a consumable element.

Skincare Revenue

The Company's revenue from Skincare products in Japan increased by $7.0 million or 147%, and $16.4 million or 214% in the three and six month periods ended June 30, 2021, respectively, compared to the same periods in 2020. The increase was due primarily to increased marketing and promotional activities and the changes in the customer's spending habits, as customers purchased more aesthetic treatments that could be applied at home, as a result of limitations on in-person aesthetic procedures.

Service Revenue

The Company's Service revenue increased $2.2 million or 47%, and $2.4 million or 23%, in the three and six month periods ended June 30, 2021, respectively, compared to the same periods in 2020. This increase was due primarily to increased sales of service contracts, and support and maintenance services provided on a time and materials basis.

Gross Profit

	Three Months Ended June 30,			Six Months Ended June 30,		
(Dollars in thousands)	2021	% Change	2020	2021	% Change	2020
Gross profit	$ 33,789	191 %	$ 11,624	$ 61,499	137 %	$ 25,960
As a percentage of total net revenue	58 %		44 %	57 %		44 %

The Company's cost of revenue consists primarily of material, personnel expenses, product warranty costs, and manufacturing overhead expenses.

Gross profit as a percentage of revenue for the three and six month periods ended June 30, 2021 increased 14% and 13%, respectively, compared to the same periods in 2020. The increase in gross profit as a percentage of revenue was primarily driven by an increase in selling prices and volumes as a result of the economic recovery. The increase in sales volume improved the Company's leveraging of fixed costs, which improved the Company's gross margin.

Sales and Marketing

	Three Months Ended June 30,			Six Months Ended June 30,		
(Dollars in thousands)	2021	% Change	2020	2021	% Change	2020
Sales and marketing	$ 18,410	67 %	$ 11,035	$ 33,478	27 %	$ 26,309
As a percentage of total net revenue	31 %		42 %	31 %		44 %

Sales and marketing expenses consist primarily of personnel expenses, expenses associated with customer-attended workshops and trade shows, post-marketing studies, advertising, and training.

Sales and marketing expenses for the three months ended June 30, 2021 increased $7.4 million or 67%, compared to the same period in 2020 due primarily to:

- $3.5 million increase in personnel related expenses, including $3.0 million increase in commission costs;
- $1.0 million increase in travel;

- $0.9 million increase in services due to paid marketing services to launch new business;
- $0.6 million increase in tradeshows and costs related to promotions and public relations; and
- $0.4 million increase in freight and shipping.

Sales and marketing expenses for the six months ended June 30, 2021 increased $7.7 million or 27% , respectively, compared to the same period in 2020 due primarily to:

- $4.2 million increase in personnel related expenses, including $4.4 million increase in commission costs;
- $0.9 million increase in services due to paid marketing services to launch new business;
- $0.6 million increase in freight and shipping;
- $0.1 million increase in travel; and
- $0.1 million increase in tradeshows and costs related to promotions and public relations.

Research and Development ("R&D")

	Three Months Ended June 30,			Six Months Ended June 30,		
(Dollars in thousands)	2021	% Change	2020	2021	% Change	2020
Research and development	$ 4,850	62 %	$ 2,991	$ 8,962	31 %	$ 6,862
As a percentage of total net revenue	8 %		11 %	8 %		12 %

R&D expenses consist primarily of personnel expenses, clinical research, regulatory and material costs. R&D expenses increased by $1.9 million or 62%, and $2.1 million or 31% in the three and six month periods ended June 30, 2021, respectively, compared to the same period in 2020. The increase was due primarily to higher personnel expenses driven primarily by an increase in headcount.

General and Administrative ("G&A")

	Three Months Ended June 30,			Six Months Ended June 30,		
(Dollars in thousands)	2021	% Change	2020	2021	% Change	2020
General and administrative	$ 8,461	(1)%	$ 8,529	$ 15,826	(3)%	$ 16,336
As a percentage of total net revenue	14 %		32 %	15 %		28 %

G&A expenses consist primarily of personnel expenses, legal, accounting, audit and tax consulting fees, as well as other general and administrative expenses. G&A expenses decreased by $0.1 million or 1%, for the three months ended June 30, 2021, compared to the same period in 2020. G&A expenses represented 14% of total net revenue in the three months ended June 30, 2021 compared to 32% of total net revenue in the same period in 2020. G&A expenses decreased by $0.5 million or 3%, and represented 15% of total net revenue in the six months ended June 30, 2021 compared to 28% of total net revenue in the same period in 2020. These decreases was mainly due to $1.1 million and $1.8 million decreases in inside and outside services fees, $0.9 million and $1.2 million decreases in credit losses, and $0.6 million and $0.4 million decreases in legal fees; partially offset by $1.7 million and $1.7 million increases in personnel related costs.

Interest and Other income (expense), Net

Interest and other income (expense), net, consists of the following:

	Three Months Ended June 30,			Six Months Ended June 30,		
(Dollars in thousands)	2021	% Change	2020	2021	% Change	2020
Interest and other income (expense), net	$ 5,800	193,233 %	$ 3	$ 4,534	(2,323)%	$ (204)
As a percentage of total net revenue	10 %		— %	4 %		— %

Interest and other income (expense), net, increased $5.8 million and $4.7 million in the three and six month periods ended June 30, 2021, respectively, compared to the same periods in 2020. These increases were due primarily to a $7.2 million gain resulting from the forgiveness of PPP Loan and accrued interest. This gain was partially offset by $0.8 million and $1.0 million in interest expense for the three and six month periods ended June 30, 2021, respectively, related to Convertible notes issued in March 2021.

Provision for Income Taxes

(Dollars in thousands)	Three Months Ended June 30, 2021	$ Change	2020	Six Months Ended June 30, 2021	$ Change	2020
Income (loss) before income taxes	$ 7,868	$18,796	$ (10,928)	$ 7,767	$31,032	$ (23,265)
Income tax provision	$ 122	$ (344)	$ 466	$ 380	$ (163)	$ 543

The Company's income tax expenses were $0.1 million and $0.4 million for the three and six months ended June 30, 2021, respectively, compared to $0.5 million for both the periods in 2020.

Liquidity and Capital Resources

The Company’s principal source of liquidity was cash generated from net proceeds from the issuance of the Convertible notes and from the issuance of common stock through exercise of stock options and the Company’s employee stock purchasing program, as well as cash generated from operating activities. The Company actively manages its cash usage to ensure the maintenance of sufficient funds to meet its daily needs. The majority of the Company’s cash and cash equivalent are held in U.S. banks and its foreign subsidiaries maintain a limited amount of cash in their local banks to cover their short-term operating expenses.

As of June 30, 2021 and December 31, 2020, the Company had $178.2 million and $51.9 million of working capital, respectively. Cash and cash equivalents increased by $122.2 million to $169.2 million as of June 30, 2021 from $47.0 million as of December 31, 2020, primarily due to net proceeds from the issuance of the Convertible notes, partially offset by $16.1 million in premiums paid at the same time for separate capped call transactions.

Cash, Cash Equivalents

The following table summarizes its cash, cash equivalents and marketable investments:

(Dollars in thousands)	**June 30, 2021**	**December 31, 2020**	**Change**
Cash and cash equivalents	$ 169,200	$ 47,047	$ 122,153

Cash Flows

(Dollars in thousands)	**Six Months Ended June 30, 2021**	**2020**
Net cash flow provided by (used in):		
Operating activities	$ 4,818	$ (17,951)
Investing activities	(299)	(5,702)
Financing activities	117,634	30,996
Net increase in cash and cash equivalents	$ 122,153	$ 7,343

Cash Flows from Operating Activities

Net cash provided by operating activities in the six months ended June 30, 2021 was approximately $4.8 million, which was due primarily to:

- $7.4 million net income as adjusted for non-cash related items, consisting primarily of PPP loan forgiveness of $7.2 million, $4.8 million of stock-based compensation expense, $1.7 million of depreciation and amortization expenses, $0.5 million of provision for credit losses and $0.6 million related to increase in right-of-use assets;
- $10.2 million cash generated as a result of an increase in accrued liabilities;
- $0.2 million cash generated due to an increase in deferred revenue; partially offset by
- $6.0 million cash used as a result of an increase in inventory;
- $4.4 million cash used as a result of an increased accounts receivable;
- $0.5 million cash used due to a decrease in accounts payable;
- $0.5 million cash used as a result of a decrease in operating lease liabilities; and
- $1.7 million cash used as a result of an increase in other long-term assets.

Net cash used in operating activities in the six months ended June 30, 2020 was approximately $18.0 million, which was primarily due to:

- $23.8 million net loss as adjusted for non-cash related items, consisting primarily of stock-based compensation expense of $6.1 million, $2.1 million of depreciation and amortization expenses, 1.7 million of provision for credit losses and $0.8 million related to impairment of software development costs;
- $10.8 million cash used to settle accounts payable and accrued liabilities;
- $6.0 million from a decrease in accounts receivables:
- $2.7 million from a decrease in inventories;
- $2.4 million from a decreased in deferred revenue;
- $0.5 million from a decrease in other long term assets; and
- $0.3 million used to settle extended warranty liabilities.

Cash Flows from Investing Activities

Net cash used in investing activities was $0.3 million in the six months ended June 30, 2021, which was attributable to purchases of property, equipment and software.

Net cash used in investing activities was $5.7 million in the six months ended June 30, 2020, which was primarily due to:

- $16.2 million of cash used to purchase marketable investments;
- $0.4 million of cash used in the acquisition of property, equipment, and software; partially offset by
- $10.9 million in net proceeds from the maturities of marketable investments

Cash Flows from Financing Activities

Net cash provided by financing activities was $117.6 million in the six months ended June 30, 2021, which was primarily due to:

- $133.5 million proceeds from the issuance of Convertible notes net of debt issuance costs;
- $1.9 million net proceeds from the issuance of common stock due to employee stock option exercises; partially offset by
- $16.1 million of cash used for the capped call transaction in connection with the issuance of Convertible notes;
- $1.5 million million of cash used for taxes paid related to net share settlement of equity awards; and
- $0.2 million of cash used to pay finance lease obligations.

Net cash provided by financing activities was $31.0 million in the six months ended June 30, 2020, which was primarily due to:

- $26.5 net proceeds from the issuance of common stock in April 2020;
- $7.1 million received for the PPP loan;
- $0.8 million net proceeds from the issuance of common stock due to employee stock option exercises and purchases of stock through the Employee Stock Purchase Plan (“ESPP”) program; offset by
- $3.1 million of cash used for taxes related to net share settlement of equity awards; and
- $0.4 million of cash used to pay finance lease obligations.

Adequacy of Cash Resources to Meet Future Needs

The Company had cash, cash equivalents of $169.2 million as of June 30, 2021. In the first half of 2021, the Company’s principal source of liquidity was $133.5 million of net proceeds from the issuance of the Company’s notes, partially offset by $16.1 million in premiums paid concurrently for separate capped call transaction. In addition, cash was generated from the issuance of common stock through the exercise of stock options and the Company’s employee stock purchasing program. The Company intends to use the cash generated in first half of 2021 to fund growth initiatives and market development activities and to provide for general corporate purposes, which may include working capital, capital expenditures, clinical trials, other corporate expenses and acquisitions of complementary products, technologies, or businesses.

The Company believes that the existing cash and cash equivalents and the cash available under the revolving credit facility will be sufficient to meet the Company’s anticipated cash needs for at least the next 12 months.

Debt

In March 2021, the Company issued $138.3 million aggregate principal amount of convertible notes due on March 15, 2026 in a private placement offering. The Convertible notes bear interest at a rate of 2.25% per year payable semiannually in arrears on March 15 and September 15 of each year, beginning on September 15, 2021. The Convertible notes are presented as long-term debt, net of debt discount. Proceeds from the offering were $133.5 million, net of issuance costs, including underwriters' fees, which were recorded in the condensed consolidated balance sheet.

On July 9, 2020, the Company terminated its undrawn revolving line of credit with Wells Fargo and subsequently entered into a Loan and Security Agreement with Silicon Valley Bank. The agreement provides for a four-year secured revolving loan facility ("SVB Revolving Line of Credit") in an aggregate principal amount of up to $30.0 million. See Note 13 – Debt in the accompanying notes to consolidated financial statements for more information.

In connection with the issuance of Convertible notes, the Company entered into Amendment No. 1 to Loan and Security Agreement on March 4, 2021, which amended the Company's Loan and Security Agreement, dated as of July 9, 2020 between the Company, as borrower, and Silicon Valley Bank. The Amendment amends the Loan and Security Agreement to (i) permit the Company to issue the Convertible notes and perform its obligations in connection therewith, and (ii) permit the Capped Call transactions.

The Loan and Security Agreement with Silicon Valley Bank contains customary affirmative covenants, such as financial statement reporting requirements and delivery of borrowing base certificates, as well as customary covenants that restrict the Company's ability to, among other things, incur additional indebtedness, sell certain assets, guarantee obligations of third parties, declare dividends, or make certain distributions, and undergo a merger or consolidation or certain other transactions. The Loan and Security Agreement also contains certain financial condition covenants.

On March 4, 2021, the Loan and Security Agreement dated July 9, 2020 was amended to (i) permit the Company to issue the Convertible notes and perform its obligations in connection therewith, and (ii) permit the Capped Call transactions.

On or about May 28, 2021, the Loan and Security Agreement was amended. The amendment removed the quarterly minimum revenue requirement but kept the in place the other financial covenants.

As of June 30, 2021, the Company had not drawn on the SVB Revolving Line of Credit and the Company is in compliance with all financial covenants of the SVB Revolving Line of Credit.

Commitments and Contingencies

As of the date of this report, there were no material changes to the Company's contractual obligations and commitments outside the ordinary course of business since March 23, 2021, as reported in the Company's Annual Report on 2020 Form 10-K.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

A summary of the key market risks facing the Company is disclosed below. For a detailed discussion, please see the Company's Annual Report on Form 10-K for the year ended December 31, 2020, filed with the SEC on March 23, 2021 and other announcements the Company makes from time to time.

The conditional conversion feature of the convertible notes, if triggered, may adversely affect our financial condition and operating results.

During any fiscal quarter commencing after the fiscal quarter ending on June 30, 2021 (and only during such fiscal quarter), if the last reported sale price of the common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on and including, the last trading day of the immediately preceding fiscal quarter is greater than or equal to 130% of the conversion price for the Convertible notes on each applicable trading day. This condition was met for the convertible notes during the fiscal quarter ended June 30, 2021, as the Company's stock traded at a price in excess of the conversion price, which means that the holders of the convertible notes may elect to convert such notes at their option at any time during the fiscal quarter ending September 30, 2021. If one or more holders elect to convert their convertible notes, unless the Company elects to satisfy its conversion obligation by delivering solely shares of its common stock, the Company would be required to settle a portion or all of its conversion obligation through the payment of cash, which could adversely affect the Company's liquidity.

Interest Rate and Market Risk

As of June 30, 2021, the Company had not drawn on the Original Revolving Line of Credit, as amended. Overall interest rate sensitivity is primarily influenced by any amount borrowed on the line of credit and the prevailing interest rate on the line of credit facility. The effective interest rate on the line of credit facility is based on a floating per annum rate equal to the Prime rate. The Prime rate was 3.25% as of June 30, 2021, and accordingly the Company may incur additional expenses if the Company has an outstanding balance on the line of credit and the Prime rate increases in future periods.

Inflation

The Company does not believe that inflation has had a material effect on the Company's business, financial condition, or results of operations. If the Company's costs were to become subject to significant inflationary pressures, the Company may not be able to fully offset such higher costs through price increases. The Company's inability or failure to do so could harm the Company's business, financial condition, and results of operations.

Foreign Exchange Fluctuations

The Company generates revenue in Japanese Yen, Euros, Australian Dollars, Canadian Dollars, British Pounds, and Swiss Francs. Additionally, a portion of the Company's operating expenses, and assets and liabilities are denominated in each of these currencies. Therefore, fluctuations in these currencies against the U.S. dollar could materially and adversely affect the Company's results of operations upon translation of the Company's revenue denominated in these currencies, as well as the re-measurement of the Company's international subsidiaries' financial statements into U.S. dollars. The Company has historically not engaged in hedging activities relating to the Company's foreign currency denominated transactions.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

An evaluation as of June 30, 2021 was carried out under the supervision and with the participation of the Company's management, including the Company's Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), of the effectiveness of the Company's "disclosure controls and procedures." Rule 13a-15(e) under the Exchange Act defines "disclosure controls and procedures" as controls and other procedures of a company that are designed to ensure that the information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to the company's management, including its CEO and CFO, as appropriate, to allow timely decisions regarding required disclosure. Based upon that evaluation, the Company's CEO and CFO concluded that the Company's disclosure controls and procedures were effective at June 30, 2021.

Attached as exhibits to this Quarterly Report are certifications of the Company's CEO and CFO, which are required in accordance with Rule 13a-14 of the Exchange Act. This Controls and Procedures section includes the information concerning

the controls evaluation referred to in the certifications, and it should be read in conjunction with the certifications for a more complete understanding of the topics presented.

Changes in Internal Control over Financial Reporting

The Company implemented certain controls related to the Convertible notes issued on March 5, 2021. These controls were designed and implemented to ensure the completeness and accuracy over financial reporting. With the exception of these additional controls, there were no changes in the Company's internal control over financial reporting during the six months ended June 30, 2021 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

Limitations on the Effectiveness of Controls

A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, if any, within a company have been detected. Accordingly, the Company's disclosure controls and procedures are designed to provide reasonable, not absolute, assurance that the objectives of the Company's disclosure control system are met. As set forth above, the Company's Chief Executive Officer and Chief Financial Officer have concluded, based on their evaluation as of the end of the period covered by this report, that the Company's disclosure controls and procedures were effective to provide reasonable assurance that the objectives of the Company's disclosure control system were met.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

From time to time, the Company may be involved in legal and administrative proceedings and claims of various types. For a description of the Company's material pending legal and regulatory proceedings and settlements, see Note 12 to the Company's consolidated financial statements entitled "Commitments and Contingencies," in the Annual Report on Form 10-K for the year ended December 31, 2020, filed with the SEC on March 23, 2021.

ITEM 1A. RISK FACTORS

There are no material changes from the Risk Factors previously disclosed in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2020, filed with the SEC on March 23, 2021.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

The Company issued $138.3 million aggregate principal amount of Convertible notes in a private placement offering on March 5, 2021. The notes bear interest at a rate of 2.25% per year. In connection with issuance of the notes, the Company entered into capped call transactions with certain option counterparties. The capped call transactions are generally expected to reduce the potential dilution of the Company's common stock upon any conversion of the Notes. The capped calls were purchased for $16.1 million.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

None.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

Exhibit No.	Description
3.2	Amended and Restated Certificate of Incorporation of the Registrant (filed as Exhibit 3.5 to its Quarterly Report on Form 10-Q filed on November 7, 2017 and incorporated herein by reference).
3.4	Bylaws of the Registrant (filed as Exhibit 3.4 to its Current Report on Form 8-K filed on January 8, 2015 and incorporated herein by reference).
4.1	Specimen Common Stock certificate of the Registrant (filed as Exhibit 4.1 to its Annual Report on Form 10-K filed on March 25, 2005 and incorporated herein by reference).
10.1	ZO Medical and Cutera Agreement 5 Aug 2013
10.2	ZO Skin Health Amendment 21 Aug 2013
10.3	ZO Skin Health Amendment 25 Jan 2021
10.4	ZO Skin Health Amendment 14 Jun 2021
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.ins	Instance Document
101.sch	Inline XBRL Taxonomy Extension Schema Document
101.cal	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.def	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.lab	Inline XBRL Taxonomy Extension Label Linkbase Document
101.pre	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)

SIGNATURE

Pursuant to the requirements of Section 13 or 15(d) 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, in the city of Brisbane, State of California, on the 6th day of August, 2021.

CUTERA, INC.

/s/ Rohan Seth

Rohan Seth
Chief Financial Officer
(Principal Financial and Accounting Officer)

CERTAIN IDENTIFIED INFORMATION HAS BEEN OMITTED FROM THIS DOCUMENT BECAUSE IT IS NOT MATERIAL AND (I) WOULD BE COMPETITIVELY HARMFUL TO THE REGISTRANT IF PUBLICLY DISCLOSED OR (II) IS INFORMATION THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL. SUCH INFORMATION HAS BEEN MARKED WITH "[***]" TO INDICATE WHERE OMISSIONS HAVE BEEN MADE.

Distribution Agreement between

ZO® SKIN HEALTH, INC.

&

CUTERA, INC

August 5, 2013

DISTRIBUTION AGREEMENT

THIS DISTRIBUTION AGREEMENT is made on August 5, 2013, and shall become effective on October l , 2013 (the "Effective Date") by and between ZO SKIN HEALTH, INC., a company established and existing under the laws of the State of California, having its principal place of business at 1 Technology Drive, Suite B-123, Irvine, CA 92618, USA, ("ZO SKIN HEALTH") and CUTERA, INC., a corporation organized and validly existing under the laws of Delaware, having its principal place of business at 3240 Bayshore Blvd., Brisbane, CA 94005, USA (" Distributor"). ZO SKIN HEALTH and the Distributor are sometimes referred to herein collectively as the "Parties" and individually as "Party."

RECITALS

WHEREAS, ZO SKIN HEALTH develops and markets a line of products known as " ZO Medical," as described in Section 1.8 below and Exhibit A attached hereto and incorporated herein by this reference, but contracts to have the Products manufactured for it by unaffiliated manufacturing businesses;

WHEREAS, ZO SKIN HEALTH desires to have Distributor distribute the Products and Related Products (defined in Section 3 hereof) in the Territory identified below; and

WHEREAS, ZO SKIN BEALTH and Distributor deem it to be in their mutual best interests to enter into an agreement whereby Distributor shall be appointed as an exclusive distributor of the Products and Related Products in the Territory and under the terms and conditions set for below.

NOW THEREFORE, in consideration of the recitals set forth above and the terms, conditions and mutual covenants set forth below, the Parties agree as follows:

1. DEFINITIONS

For purposes of this Agreement, the following words shall have the following meanings:

1.1 "Affiliate" means, with respect to any specific entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified entity, or has a contractual relationship with such specified entity.

1.2 "Agreement" means this Distribution Agreement and all exhibits, schedules and annexes which are attached to this Agreement from time to time and form a part hereof.

1.3 "Channels of Distribution" means distribution through physicians' offices and medical spas where a physician is on-site and responsible for administering of the Products; but, it excludes all other channels of distribution including resort spas, mass merchants, warehouse clubs, traditional food and drug stores, web sites and e-tailers (e.g., drugstore.com, etc.). The Products and Related Products sold to Distributor under this Agreement may be resold over the internet through Distributor's website for the sole purpose of fulfilling orders of existing Customers. No other internet sales are authorized by this Agreement. Distributor agrees to establish and maintain appropriate measures to ensure that the Products and Related Products are

only distributed within the Territory and sold pursuant to the terms of this Agreement.

1.4 "Confidential Information" is defined in Section 13.l hereof.

1.5 "Customer" means any entity or business described in Section 1.3 who used or uses the Products and Related Products in servicing its clients, who purchases the Products and Related Products from the Distributor or an approved sub-distributor in the Territory for resale or for use solely within the Channels of Distribution in the Territory.

1.6 "Distributor Purchase Prices" means the prices payable by Distributor to ZO SKIN HEALTH as consideration for the purchase by Distributor of the Products and Related Products, as set forth in Exhibit A, as may be unilaterally amended from time to time by ZO SKIN HEALTH after 60days' advance written notice to Distributor.

1.7 "ZO SKIN HEALTH Marks" means the trademarks, trade names and service marks, domain names, and logos of ZO SKIN HEALTH and other commercial symbols identifying ZO SKIN HEALTH or the Products and Related Products and/or other products and services of ZO SKIN HEALTH, including those set forth in Exhibit C, and those developed in the future, as the same may be modified, deleted or supplemented at any time upon written notice from ZO SKIN HEALTH.

1.8 "Products" means the "ZO Medical" line of skin care products produced by or for ZO SKIN HEALTH as described in Exhibit A, which exhibit may be unilaterally amended by ZO SKIN HEALTH after 60 days' advance written notice to Distributor, thereby adding and deleting Products available for distribution from time to time.

1.9 "Proprietary Information" is defined in Section 13.1.

1.10"SKU" or a "Stock Keeping Unit" is an identifier to permit the tracking of Products or Related Products by unit, type of Product or Related Product or one or more particular Product or Related Product.

1.11 "Territory" means the country(ies) set forth in Exhibit A, including, without limitation, their territories and possessions and any other geographic area agreed upon in writing by the Parties for the exercise of Distributor's rights and obligations in this Agreement.

1.12 "Trade Secrets" is defined in Section 13.1.

2. APPOINTMENT

2.1 Grant of Rights. ZO SKIN HEALTH hereby grants to Distributor, and Distributor hereby accepts, upon the terms and conditions set forth in this Agreement, the exclusive right to promote, market, sell, distribute through itself and approved sub-distributors, if any, the Products and Related Products to Customers located within the Territory for sale or use within the Territory and only within the Channels of Distribution.

2.2 Technical and Sales Literature License. During the term of this Agreement, and subject to its terms and conditions, ZO SKIN HEALTH grants to Distributor a nonexclusive,

nontransferable, royalty free license, to use those ZO SKIN HEALTH Marks which are related to the Products and Related Products and the ZO SKIN HEALTH sales and technical literature and materials to exclusively promote, market, sell and distribute the Products and Related Products in the Territory.

2.3 Sales Outside the Territory, Channels of Distribution; Internet Sales. Unless specifically authorized in writing by ZO SKIN HEALTH, Distributor shall not: (a) through itself, or any sub-distributor or Customer, distribute, sell or otherwise provide the Products or Related Products outside the Territory or outside the Channels of Distribution; (b) advertise, promote or solicit Customers for the Products or Related Products outside the Territory or outside the Channels of Distribution; (c) sell or distribute the Products or Related Products to any sub-distributor or Customer who it knows sells the Products or Related Products outside the Territory or outside the Channels of Distribution; (d) promote or sell the Products or Related Products to the general public using the Internet; (e) sell or distribute the Products or Related Products to any sub-distributor or Customer who it knows sel1s the Products or Related Products on its website; and (f) sell or distribute the Products or Related Products to any sub distributor or Customer who it knows promotes or sells the Products or Related Products to the general public using the Internet. Distributor and ZO SKIN HEALTH shall monitor Distributor's and, if applicable, its sub-distributors' distribution and sale of the Products and Related Products to insure that the Products and Related Products are not, directly or indirectly, being redistributed or resold outside the Territory or outside the Channels of Distribution. Distributor shall be responsible for any violation of this section by it or any person or entity who receives the Products or Related Products, directly or indirectly, from Distributor. Distributor shall immediately terminate any sub-distributor agreement or Customer agreement and immediately stop selling to a sub-distributor or Customer if it learns that the sub-distributor or Customer, directly or indirectly, distributed the Products or Related Products outside the Territory or outside the Channels of Distribution; by doing so, Distributor shall not be in breach of this Agreement as a result of such activity by the sub-distributor or Customer. Except as otherwise specifically provided herein, any violation of this Section 2.3 shall be deemed an immediate, incurable breach of this Agreement which constitutes grounds for termination of this Agreement by ZO SKIN HEALTH, in addition to any other remedies available to ZO SKIN HEALTH under this Agreement, at law or in equity. Notwithstanding the immediately preceding sentence, if there is not a pattern of violations of this Section 2.3, as determined by ZO SKIN HEALTH, in its discretion, then Distributor shall have a period of 30 days to cure the breach after receipt of written notice of such violation from ZO SKIN HEALTH. Waiver by ZO SK.IN HEALTH of any violation of this section by Distributor or Distributor's sub distributors or their Customers shall not constitute a waiver of any other violations under this section. For purposes of this Section 2.3, the term "indirectly" refers to actions by: (a) a subdistributor, (b) a Customer, (c) any Affiliate of Distributor, or a sub-distributor or Customer, or
(d) any person or business specifica11y directed by Distributor, or a sub-distributor or Customer, or an Affiliate of any of them, to circumvent the provisions set forth above.

2.4 Reserved Rights. Except as otherwise set forth in this Agreement, no express or implied right is granted to Distributor regarding the Products or Related Products, the ZO SKIN HEALTH technical and sales literature or the ZO SKIN HEALTH Marks. Distributor acknowledges that all copyright, patent, trade secret and other intellectual property rights in and to the Products and that ZO SKIN HEALTH may have in the Related Products, ZO

 SKIN HEALTH technical and sales literature and the ZO SKIN HEALTH Marks are the sole property of ZO SKIN HEALTH. ZO SKIN HEALTH reserves all rights not expressly granted herein.

2.5 Sub-Distributors. As of the Effective Date, the Parties do not intend for Distributor to have the right to use sub-distributors. Consistent therewith, Distributor shall not, without the prior written consent of ZO SKIN HEALTH, which consent may be withheld by ZO SKIN HEALTH in its sole and absolute discretion, appoint any third party as a sub-distributor of Distributor ("sub distributor"), which includes without limitation Distributor selling or consigning Products or Related Products to any person or entity that is not a Customer, to promote, market, distribute and/or sell the Products and Related Products within the Territory. Distributor shall submit to ZO SKIN HEALTH for written approval prior to Distributor engaging a sub-distributor to promote, market distribute and/or sell the Products or Related Products, Distributor's written agreement with the sub-distributor, which shall contain at least the contractual obligations and rights set forth in Exhibit E attached hereto. The rights granted to a sub-distributor shall not, in any event, be greater than the rights of Distributor under the terms of this Agreement; and, Distributor shall remain primarily responsible for any and all actions taken by sub-distributor.

2.6 Pricing. The following provisions of this Section 2.6 shall be effective to the extent that they do not violate the laws of Japan. If, at any time, it is determined that the following provisions violate Japanese law, then to the extent prohibited by law, they shall not be followed by the Parties. ZO SKIN HEALTH will provide Distributor from time to time in writing with a suggested price at which the Products and Related Products should be sold to Customers. In the event Distributor or its sub-distributor shall sell Products or Related Products to its Customers at a price below the suggested price to Customers (such factual circumstances are hereafter referred to as the "Pricing Default"), ZO SKIN HEALTH may on thirty (30) days' advance written notice to the Distributor or sub-distributor terminate the Distribution Agreement or sub-distributor agreement. Distributor hereby appoints ZO SKIN HEALTH as its attorney in fact, which appointment is coupled with an interest, for the sole purpose of terminating a sub-distributor pursuant to the foregoing sentence. If a Pricing Default arises from the conduct of a sub distributor, rather than Distributor, then Distributor shall immediately stop selling the Products and Related Products to that entity upon learning of that conduct by written notice from ZO SKIN HEALTH or otherwise; by doing so, Distributor shall not be in breach of this Agreement as a result of such activity by the sub-distributor. Failure of ZO SKIN HEALTH to terminate the Distributor or a sub distributor within ninety (90) days from a Pricing Default shall constitute a waiver of its termination rights for that particular occurrence, but not for any other Pricing Defaults.

3. ADDITIONAL PRODUCTS

3.1 Related Products. ZO SKIN HEALTH may from time to time offer products for sale related to the "ZO Medical" line of products which are not listed in Exhibit A ("Related Products"). Such Related Products, new or not, may be unilaterally added to Exhibit A by ZO SKIN HEALTH at any time and shall thereafter become subject to this Agreement. If ZO SKIN HEALTH, in its sole discretion, chooses to distribute such Related Products in the Territory during the term of this Agreement, ZO SKIN HEALTH shall offer Distributor the exclusive right to promote, market, sell and distribute such Related Products in the Territory

within the Channels of Distribution, subject to the terms of this Agreement, which offer shall be open for acceptance for a period no longer than thirty (30) days. In the event Distributor chooses not to accept ZO SKIN HEALTH's offer to include any such Related Products as a part of its Minimum. Product Purchases under Section 4.l(a) hereof , ZO SKIN HEALTH may enter into distributor agreements with other distributors in the Territory for the distribution of such Related Products to Customers without further obligation to Distributor.

3.2 Excluded Products. Not included in the products which are subject to this Agreement are products sold under the label "ZO Skin Health." Absent a separate written agreement executed by both Distributor and ZO SKIN HEALTH for that label, Distributor has no right to distribute such products. In the event Distributor and ZO SKIN HEALTH enter into an agreement for distribution of the "ZO Skin Health" line of products, a breach of that agreement shall be deemed a breach of this Agreement; if that agreement is terminated as a result of the breach, this Agreement shall also be terminated as a result of such breach.

3.3 Cooperation with Distributor of ZO Skin Health Products. If Distributor is not also selling the "ZO Skin Health" line of products, then Distributor shall reasonably cooperate with the entity engaged by ZO SKIN HEALTH to sell the "ZO Skin Health" line of products in the Territory so as to enhance the mutual success of that entity and Distributor in their respective spheres.

4. GENERAL OBLIGATIONS OF DISTRIBUTOR

4.1 Minimum Purchase Requirement.

(a) Minimum Product Purchases. Subject to Section 3 above, Distributor must purchase all Products and Related Products offered from time to time by ZO SKIN HEALTH to the Distributor.

(b) Minimum Purchase Requirement. During the term of this Agreement, Distributor shall make at least the minimum purchases of Products and Related Products from ZO SKIN HEALTH as required by Exhibit A. Purchases counted toward the Minimum Purchase Requirement for any period provided for herein shall be based upon ZO SKIN HEALTH's net invoice prices for the Products and Related Products which are paid by Distributor prior to the expiration of the applicable calendar year.

(c) Termination of Distributor Rights. In the event that the Distributor fails to achieve the Minimum Purchase Requirement set forth above in any calendar year, then Distributor shall arrange to meet with ZO SKIN HEALTH during the first quarter following the end of the year in question to discuss developing an improvement plan and/or changing the Minimum Purchase Requirement for future periods. Both ZO SKIN HEALTH and Distributor have the obligation to negotiate in good faith; however, ZO SKIN HEALTH shall not be required to accept a lower Minimum Purchase Requirement. If they fail to develop an improvement plan or agree to a revised Minimum Purchase Requirement for future periods, then the failure shall constitute grounds, at ZO SKIN HEALTH's sole discretion, to terminate this Agreement, which it may do at any time during the second quarter following the end of

the year in question. Waiver by ZO SKIN HEALTH of any failure to meet the Minimum Purchase Requirement shall not constitute a waiver of any rights that ZO SKIN HEALTH may have with respect to any other failure to meet the Minimum Purchase Requirement.

(d) Notwithstanding subsections (a) through (c) above, if Distributor also has a contract with ZO SKIN HEALTH for distribution of its "ZO Skin Health" line of products, then Distributor may fail to reach the Minimum Purchase Requirement under this Agreement by ten [redacted] or less without violating this Agreement if the cumulative total purchases under both this Agreement and the agreement for the "ZO Skin Health" line of products equals or exceeds the sum of the Minimum Purchase Requirements under both agreements.

4.2 Promotion and Marketing. Distributor shall use commercially reasonable efforts to further the promotion, marketing, sale and distribution of the Products and Related Products in the Territory. including but not limited to, building brand awareness and value. During the term of this Agreement, the Distributor shall expend on a calendar year basis, for the advertising of the Products and Related Products in the Territory through media advertisements, public relations, promotions, merchandising, tradeshows, workshops, and displays (in each case as previously approved by ZO SKIN HEALTH in writing), not less than an amount equal to [redacted] of net sales of the Product and Related Products made during such calendar year, at the discretion of the Distributor. Notwithstanding anything herein to the contrary, no payroll costs of any kind (including, without limitation, salaries and/or commissions payable to beauty consultants) shall be applied toward the minimum advertising expenditures required pursuant to this section. The cost of general media (including agency fees, production fees and cooperative advertising); gift-with-purchase; promotion displays and their installation costs; public re1ations activities; samples and testers; and Collateral Materials may be applied toward the minimum advertising expenditure required above. Distributor shall upon written request provide ZO SKJN HEALTH with documentation of all such expenditures as well as photographs, ad copy, and all other relevant documents relating to its public relations efforts. ZO SKIN HEALTH may, in its reasonable discretion, prepare promotional programs for the Products and Related Products in the Territory and Distributor agrees to cooperate with ZO SKIN HEALTH in sales or promotional programs prepared by ZO SKIN HEALTH. Distributor shall not make, nor permit its sub-distributors to make, any materially misleading or untrue statements concerning the Products or Related Products. In addition:

(a) Distributor shall maintain an office and well-trained staff to promote the sale of the Products and Related Products, and to solicit orders for them.

(b) Distributor shall provide full and accurate advice and assistance to Customers when soliciting orders for Products and Related Products.

(c) Distributor shall handle promptly, efficiently, courteously and properly all inquiries, quotations, correspondence, orders and complaints in connection with the Products and Related Products.

(d) Distributor shall promptly inform ZO SKIN HEALTH of any complaints


that it receives that are of either a material or a recurring nature.

(e) Distributor shall use its best commercial effort to ensure that the location and display of the Products and Related Products in each location in which the Products and Related Products are sold in the Territory will be at least as favorable as the location of any similar or competitive products.

(f) If Distributor shall be affiliated with any customer of the Products and Related Products, Distributor shall not favor such Affiliate over any other customer.

(g) Distributor shall make no representation, guarantee or warranty, either express or implied, with respect to any Product or Related Product, beyond those contained in ZO SKIN HEALTH approved package labels and products instructions, without the express written consent of ZO SKIN HEALTH or as otherwise required by the laws of the jurisdiction in which the Products and Related Products are offered for sale in the Territory. Distributor shall not have the right, power or authority to make any representation, guarantee or warranty on behalf of ZO SKIN HEALTH. Distributor shall not make or cause to be made or authorize any modifications or additions to the Products or Related Products without the express prior written consent of ZO SKIN HEALTH.

(h) Distributor shall at all times keep and maintain at its office set forth above accurate accounts and records of all transactions pertaining to the Products and Related Products and to this Agreement. All such accounts and records shall be retained by Distributor during the term of this Agreement and for a period of three (3) years after the date of any termination of this Agreement and, upon mutual consent of the Parties, shall be subject to examination and audit by ZO SKIN HEALTH or its authorized representative, during normal business hours. Distributor shall at all times promptly make available to ZO SKIN HEALTH such of its records as are necessary for ZO SKIN HEALTH to fulfill any recall or other obligation it deems necessary under any applicable law, rule or regulation and such obligations shall survive and continue after termination of this Agreement.

4.3 **Competing Products.** During the term of this Agreement, Distributor shall not sell, distribute, market, advertise or solicit purchase orders for any product that is competitively positioned in the Territory with ZO SKIN HEALTH's products, including without limitation, the Products and Related Products. However, notwithstanding the immediately preceding sentence, the Distributor shall have the right to distribute the inventory of competitively positioned products that it purchased prior to the Effective Date of this Agreement until the end of business on March 31, 2014; except that, those products listed on Exhibit F attached hereto and incorporated herein by this reference may be purchased and sold by Distributor until the end of business on September 30, 2015. The term "competitively positioned" refers to medical and cosmeceutical skin care products marketed and sold through the Channels of Distribution . Except as provided above, Distributor shall promptly terminate any sub-distributor who without the written consent of the Parties sells, distributes, markets, advertises or solicits purchase orders for any product that is competitively positioned with ZO SKIN HEALTH's products in the Territory. Distributor shall advise ZO SKIN HEALTH in writing of (i) any known or suspected duplication of the Products or Related Products, (ii) competitors in the

Territory competing with the Products and Related Products, and (iii) any change in regulations and/or practices within the Territory affecting the use of the Products and Related Products. Distributor and its sub-distributors, if applicable, shall at all times make ZO SKIN HEALTH's Products and Related Products the primary focus of their marketing and sales efforts.

4.4 Business Plan and Reporting. By the 1st business day of November, 2013, Distributor shall create a business plan ("Business Plan") for the marketing, distribution and sale of Products and Related Products in the Territory and by October 1st of each year prepare the same for the following calendar year. The Business Plan shall include a description of the Distributor's sales organization (including that of any sub-distributors), a competitive market analysis, methods of distribution, a marketing plan, projected quarterly sales by Products and Related Products, and such other information ZO SKIN HEALTH may reasonably request from time to time. Following the end of each calendar year during the term of this Agreement, but no later than March 15th of the following year, Distributor shall send to ZO SKIN HEALTH a report containing the number of accounts, the nature of the accounts, a market review, etc., in form and substance mutually agreed to by ZO SKIN HEALTH and Distributer.

4.5 Governmental Requirements. Subject to the terms of this Agreement, Distributor shall, and shall require its sub-distributors to (i) comply with all applicable laws and regulations of the United States and the Territory, including but not limited to, export laws and restrictions and regulations of the United States Department of Commerce or other United States or foreign agency or authority, and shall not export, or participate in any transaction which may involve the export or re-export of any Products or Related Products in violation of any such restrictions, laws or regulations; (ii) assist ZO SKIN HEALTH in obtaining any required registrations, licenses and permits for the Products and Related Products and the marketing, sale and distribution of the Products and Related Products in the Territory by supplying such documentation or information as may be reasonably requested by ZO SKIN HEALTH; and (jii) obtain and maintain during the term of this Agreement all governmental approvals and licenses necessary to import the Products and Related Products into the Territory. If any governmental registration, license or approval for the marketing, sale and distribution of the Products and Related Products is required, Distributor shall obtain ZO SKIN HEALTH's written approval prior to commencing any registration or approval process. Unless otherwise required by applicable law, all registrations, licenses and approvals for the Products and Related Products and the distribution of the Products and Related Products in the Territory shall be in the name of and shall be solely owned by ZO SKIN HEALTH. ZO SKIN HEALTH will reimburse Distributor for any pre-approved and reasonable fees for assistance in obtaining such registrations, licenses and approvals that are in ZO SKIN HEALTH's name or that are transferred to ZO SKIN HEALTH on termination of this Agreement. Distributor shall provide ZO SKIN HEALTH with a copy of all registrations, licenses and approvals obtained or received for the Products and Related Products and for the distribution of the Products and Related Products in the Territory within five (5) business days of Distributor's receipt of each such registration, license and approval. Should Distributor, either prior to this Agreement or at any time after execution of this Agreement, obtain a registration, license or approval for the Products and Related Products or for the distribution of the Products and Related Products in the Territory, Distributor agrees to immediately take the appropriate action to transfer such registration, license or approval to ZO SKIN HEALTH as required above and as is consistent


with the spirit and intent of this Section 4.5. In furtherance of, but without limiting the foregoing, Distributor represents that it has read, understood and will comply and cause its sub distributors to comply with the anti-bribery provisions of the U.S. Foreign Corrupt Practices Act. Distributor covenants and agrees that it shall promptly notify ZO SKIN HEALTH of any disciplinary action or change in status with regard to any license, permit or authorization required by law. For its pact, ZO SKIN HEALTH recognizes the need for the Distributor to comply with all local legal requirements and that from time to time such legislation may prevent the Distributor from fully complying with one or other terms of this Agreement. In such cases, providing sufficient evidence is provided, ZO SKIN HEALTH will not deem a failure to comply with that term or condition a breach of this Agreement.

4.6 Distributor Expenses. Except as provided in Section 4.5, Distributor assumes full responsibility for all its own costs and expenses incurred in carrying out its obligations under this Agreement, including but not limited to all rents, salaries, commissions, advertising, translations of documents and materials, demonstration, travel and accommodation for the employees, agents, representatives or other personnel of Distributor.

4.7 Marketing Materials. All marketing materials created by or for Distributor or for any sub-distributor relating to the Products and Related Products shall be approved in writing within 7 days of submission by ZO SKIN HEALTH prior to use by Distributor or any sub distributor. Such marketing materials shall contain copyright, trademark and accreditation notices as prepared by ZO SKIN HEALTH. An approved sub-distributor shall not be permitted to create any marketing materials with respect to Products or Related Products. Further, the name " Obagi" may only be used to sell, market, or advertise products or services if "Obagi" is part of the phrase " by Zein Obagi, M.D." and so long as the phrase "by Zein Obagii, M.D." appears in a font size not materially different than the proportional relationship to the font size of "ZO ® MEDICAL" that is shown in Exhibit C. Any violation of the requirements set forth in the immediately preceding sentence shall be considered a material breach of this Agreement.

4.8 Quarterly Forecast. Distributor shall provide ZO SKIN HEALTH with reports of its activities, competitor activities, and other information regarding the Products and Related Products and the markets for them in the Territory in such detail and with such frequency as ZO SKIN HEALTH shall reasonably require from time to time. In order to help ZO SKIN HEALTH provide inventory on a timely and consistent basis to Distributor, Distributor agrees to provide to ZO SKIN HEALTH on a quarterly basis a twelve (12) month rolling forecast of Distributor's projected purchase orders (including that of sub-distributors) on the form attached hereto as Exhibit B. Distributor's provision of the above-mentioned forecast shall not be interpreted as a commitment from Distributor to buy any Products or Related Products in excess of Distributor's Minimum Purchase Requirement, unless otherwise agreed to in writing by the Parties.

4.9 Development of Faculty. ZO SKIN HEALTH anticipates that Dr. Zein Obagi will, from time to time, conduct seminars and make other public appearances to promote ZO SKJN HEALTH products within the Territory, for the mutual benefit of ZO SKIN HEALTH and Distributor. Dr. Obagi's standard personal appearance fee will be borne by Distributor, and a separate personal appearance contract will be executed by and between Dr. Obagi and Distributor

prior to any such appearance. ZO SKIN HEALTH and Dr. Obagi intend to associate with other qualified physicians to form a faculty of professionals who are trained and qualified to conduct seminars and other public appearances either 'in conjunction with Dr. Obagi or on his behalf. Distributor agrees to use its best efforts to help locate suitable physicians who are willing, able, and qualified to become part of that faculty, and to make introductions or otherwise facilitate a relationship between those physicians and ZO SKIN HEALTH.

4.10 Free Goods. ZO SKIN HEALTH will provide xxx of Net Sales as Free Goods and Related Products and collaterals in the first year of this Agreement; for each year thereafter, the above percentage shall be xx.

5. GENERAL OBLIGATIONS OF ZO SKIN HEALTH

5.1 General. ZO SKIN HEALTH shall use commercially reasonable efforts to maintain and enhance the reputation, usefulness, and acceptance of its Products and Related Products and to assist Distributor in all reasonable ways to promote the sale of the Products and Related Products in the Territory.

5.2 Distributor Training. ZO SKIN HEALTH shall provide initial training on the Products and Related Products and subsequent training upon the release of new Products or new Related Products that are subject to this Agreement. The date, duration, content and location of the initial training and training relating to any new Products or Related Products shall be as ZO SKIN HEALTH determines from time to time to be reasonable and appropriate after communicating with and considering the interests of Distributor. Notwithstanding the foregoing, Distributor and ZO SKIN HEALTH shall each bear their own costs of travel and living expenses for their own personnel to participate in training, whether for initial or subsequent training for the release of new Products or Related Products. If training is provided at Distributor's location, Distributor shall provide reasonable training facilities without expense to ZO SKIN HEALTH. Distributor shall be solely responsible for any other training of its sales staff.

5.3 Marketing Support. ZO SKIN HEALTH shall provide Distributor with an electronic and one hard copy of ZO SKIN HEALTH's marketing materials in English. Distributor shall provide language translations of such materials that Distributor plans to use within the Territory to ZO SKIN HEALTH at Distributor's sole expense. Distributor shall not change the literal meaning of the ZO SKIN HEALTH technical information or sales literature or materials provided to it without Distributor providing ZO SKIN HEALTH with an accurate interpretation of any changes and securing ZO SKIN HEALTH's express written permission for the changes. Such translated material shall be in conformity with the requirements of Section 4.7 hereof and shall be produced at Distributor's sole expense.

6. PURCHASE OF PRODUCTS, RELATED PRODUCTS AND SERVICES

6.1 Purchase Orders and Delivery. Distributor shall order Products and Related Products only from ZO SKIN HEALTH. All purchases of Products and Related Products by Distributor from ZO SKIN HEALTH hereunder shall be purchased and paid for at the Distributor Purchase Prices. Products and Related Products ordered by Distributor from ZO

SKIN HEALTH will be delivered by ZO SKIN HEALTH directly to the Distributor's designated freight forwarding agent. ZO SKIN HEALTH shall use commercially reasonable efforts to deliver ordered Products and Related Products within thirty (30) days of the date of receipt of a purchase order from Distributor. All Products and Related Products with a stated shelf life of more than two years shall have a minimum of 24 months of remaining shelf life at the time of shipment from ZO SKIN HEALTH to Distributor, and all Products and Related Products with a stated shelf life of two years shall have a minimum of 18 months of remaining shelf life at the time of shipment from ZO SKIN HEALTH to Distributor.

6.2 Modification of Orders. All order(s) of Distributor are non-cancelable, non refundable and non-exchangeable, except as otherwise agreed to in writing by the Parties. All order(s) placed with ZO SKIN HEALTH by Distributor for Products and Related Products shall be made through the submission of a purchase order in the form required by ZO SKIN HEALTH from time to time.

6.3 Delivery Terms. All deliveries of the Products and Related Products shall be FOB ZO SKIN HEALTH's manufacturing or warehouse facility. ZO SKIN HEALTH shall consign each shipment to the freight forwarding agent and customs broker specified by Distributor in the purchase order.

6.4 Title. Title to each of the Products and Related Products shall transfer upon consignment and delivery by ZO SKIN HEALTH at ZO SKIN HEALTH's facility to the freight forwarding agent specified in Distributor's purchase order. ZO SKIN HEALTH may, but is not required to, purchase insurance for loss, damage or theft of Products and/or Related Products while they are in transit and it may charge Distributor for any such insurance purchased.

6.5 Acceptance of Products and Related Products. ln the event of any shortage, damage or discrepancy in or to a shipment of Products or Related Products, Distributor shall promptly report the same to ZO SKIN HEALTH and furnish such written evidence or other documentation as ZO SKIN HEALTH may deem appropriate. ZO SKIN HEALTII shall not be liable for any such shortage, damage or discrepancy unless ZO SKIN HEALTH has received sufficient notice and evidence thereof from Distributor within thirty (30) days from ZO SKIN HEALTH's delivery of the Products or Related Products to Distributor's freight forwarding agent. If such evidence demonstrates to ZO SKIN HEALTH's satisfaction that ZO SKIN HEALTH is responsible for such shortage, damage or discrepancy, ZO SKIN HEALTH shall at its sole obligation promptly deliver additional or substitute Products or Related Products to Distributor therefor.

6.6 Return of Defective Products or Related Products. ZO SKIN HEALTH shall use reasonable commercial efforts to supply Distributor with Products and Related Products manufactured in accordance with applicable good manufacturing practices. In the event Products and Related Products which are delivered to Distributor are not commercially acceptable in the ordinary course of business in the Territory and the Products or Related Products were delivered by ZO SKIN HEALTH to Distributor within one hundred twenty
(120) days from ZO SKIN HEALTH's receipt of written notice of defect from Distributor, ZO SKIN HEALTH shall reasonably replace the Products or Related Products (the

"Defective Product") or credit Distributor for the purchase price reflected on the invoice for the Defective Product, provided Distributor: (a) has obtained ZO SKIN HEALTH's prior written consent to return or destroy the Defective Product, that will not be withheld unreasonably; and (b) Distributor returns or destroys with ZO SKIN HEALTH's prior approval the Defective Product within ninety (90) days from the date of receipt of the written consent to return or destroy from ZO SKIN HEALTH to Distributor accompanied by a completed Product Complaint Form, in the form attached hereto as Exhibit D. All costs associated with the return or destruction of the Defective Product will be borne by ZO SKIN HEALTH. The provisions of this Section 6.6 shall constitute Distributor's sole and exclusive remedy with respect to Defective Products. Distributor shall provide all reasonably requested assistance with respect to any Products or Related Products recalls initiated by ZO SKIN HEALTH or by any governmental agency or authority.

6.7 **Price Changes Notification.** Distributor Purchase Prices offered to Distributor are and shall remain based on standard distributor discounts from current US pricing. ZO SKIN HEALTH shall give written notice to Distributor of any amendment to the Distributor Purchase Prices of Products or Related Products at least sixty (60) days in advance of the change.

6.8 Price Increase Protection. Any orders from Distributor for Products or Related Products which are received by ZO SKIN HEALTH prior to the effective date of a price increase shall be invoiced at the previous price. Price protection will be extended to Distributor by ZO SKIN HEALTH for the purpose of satisfying legally binding Customer purchase agreements and quotations for Products or Related Products with Distributor which are in force on the effective date of the price increase. In order to obtain price protection, Distributor must provide ZO SKIN HEALTH with satisfactory documentation of such purchase agreement or binding quotation, prior to the effective date of the price increase.

6.9 Price Decrease Protection. In the event ZO SKIN HEALTH decreases the price of any Products or Related Products, Distributor may apply for a credit for Products or Related Products purchased by Distributor within sixty (60) days of the announced price decrease (the "Qualifying Product"). The credit shall be given in product and shall be equal to the difference between the price paid by Distributor for the Qualifying Product, (less any prior credits granted by ZO SKIN HEALTH) and the announced decreased price for the Products or Related Products. Issuance of the price protection credit by ZO SKIN HEALTH is contingent upon Distributor's submission to ZO SKIN HEALTH, not later than thirty (30) days after the effective date of such price decrease, of an accurate report of the Qualifying Product. Upon verification of the inventory report by ZO SKIN HEALTH, a credit in product will be given to Distributor no later than sixty (60) days after receipt by ZO SKJN HEALTH of such report.

6.10 Product Changes. ZO SKIN HEALTH may at any time upon sixty (60) days' advance written notice to Distributor without liability to Distributor:

(a) Alter the specifications for any Products or Related Products;

(b) Discontinue the development of any new Products, whether or not such new Products have been announced publicly;

(c) Discontinue the sale of any Products; and

(d) Commence the development and distribution of new Products and Related Products which may make any current Products or Related Products obsolete.

7. PRICES AND PAYMENT TERMS

7.1 Products and Related Products Prices. Subject to Sections 6.7 through 6.9 above, ZO SKIN HEALTH may, in its sole discretion, change the Distributor Purchase Prices for Products and Related Products listed in Exhibit A at any time. Subject to the provisions of Section 2.6, ZO SKIN HEALTH may, in its sole discretion, adjust the suggested price at which the Products and Related Products should be sold to Customers and the suggested retail price at which the Products and Related Products are to be sold to the public (i.e., end-user) from time to time. All Distributor Purchase Prices shall be measured in U.S. dollars.

7.2 Payment Terms. The first order shall be prepaid. Thereafter, as long as Distributor is not in breach of this Agreement, Distributor's invoices shall be due net thirty (30) days. Distributor shall pay ZO SKIN HEALTH by international bank wire transfer to an account specified by ZO SKIN HEALTH in ZO SKIN HEALTH's invoice to Distributor, or by a confirmed letter of credit or an approved credit card. All payments shall be made in U.S. dollars.

7.3 **Delinquent Accounts.** All amounts due and owing to ZO SKIN HEALTH hereunder, but not paid by Distributor in accordance with the permitted net payment terms, shall become immediately due and owing (the "Delinquent Accounts"). The Delinquent Accounts shall, for the first thirty (30) days of delinquency, bear interest in U.S. dollars at the rate of the lesser of: (i) four percent (4%) per annum above the then applicable prime interest rate announced by the Wall Street Journal for 90-day U.S. dollar loans to prime commercial customers in the United States; or (ii) the maximum lawful interest rate permitted under California law. Any Delinquent Accounts not paid within the first thirty (30) days of becoming delinquent shall bear interest at the lesser of (x) eighteen percent (18%) per annum or (y) the highest rate permitted by California law, until paid. Such interest shall at all times accrue monthly on the balance of the Delinquent Accounts. Timely payment is a material term of this Agreement. Failure by Distributor to pay an invoice within 60 days of invoicing shall excuse ZO SKIN HEALTH from its obligation to ship any further Product or Related Product and entitle it to terminate Distributor's rights under this Agreement, without an opportunity to cure. This right to terminate shall continue for 90 days after the invoice is paid and is not waived by acceptance of payment.

7.4 Taxes. Distributor shall be responsible for all taxes payable in the Territory. Distributor, by way of illustration and not by way of limitation shall be responsible for all excise, sales, use, GST and value added taxes relating to Products and Related Products sold in the Territory, including any goods and services taxes payable in the Territory.

8. TERMS AND TERMINATION

8.1 Term. This Agreement shall commence on the Effective Date and shall continue in effect for a period of five (5) years, unless otherwise terminated pursuant to the provisions

of this Agreement. Further, if Distributor has not, at any time, breached any material term of this Agreement, then at the election of Distributor, which shall be communicated to ZO SKIN HEALTH in writing at least 180 days prior to the end of the then-current term, the term of this Agreement shall continue for a subsequent 2-year period.

(a) Distributor' s right to continue this Agreement for subsequent 2-year periods shall continue as long as Distributor has not breached a material term of this Agreement and Distributor provides timely notice of its election to ZO SKIN HEALTH, as provided above.

(b) If Distributor so elects to extend the term for a subsequent 2-year period, prior to the end of the then-current term, Distributor and ZO SKIN HEALTH shall negotiate to reach an agreement on Distributor' s Minimum Purchase Requirements for each year of the next 2-year period. If they are unable to reach an agreement on Distributor's Minimum Purchase Requirements prior to the end of the then-current term, the Minimum Purchase Requirement for each year of the subsequent 2-year period shall
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be set at of the Minimum Purchase Requirement for the year immediately preceding that particular year.

(c) If during any subsequent 2-year period, Distributor or its owners desire to sell either a controlling interest in the ownership of Distributor or substantially all of the assets of Distributor, Distributor must provide written notice of the transaction to ZO SKIN HEALTH within 30 days of date of that transaction and obtain ZO SKIN HEALTH's consent to continue with this Agreement. If Distributor fails to get ZO SKIN HEALTH's consent, ZO SKIN HEALTH shall be entitled to terminate this Agreement.

8.2 Termination. Either Party may specifically terminate this Agreement in the following circumstances:

(a) If either Party gives the other Party written notice to correct one or more breaches of the terms of this Agreement and the other Party fails to correct such breach within thirty (30) days after receipt of written notice of the same, the aggrieved Party may immediately terminate this Agreement. Notwithstanding the foregoing, ZO SKIN HEALTH may terminate this Agreement without any advanced notice and without providing an opportunity to cure for: (i) failure by Distributor to pay an invoice within 60 days of invoicing (as discussed in section 7.3); (ii) violation by Distributor of section 2.3 ("Sales Outside the Territory. Channels of Distribution; Internet Sales," if ZO SKIN HEALTH determines that there is a pattern of violating that section; (iii) failure by Distributor to meet its minimum purchase requirements (as discussed in section 4.1); or (iv) violation of the restrictions for use of the name "Obagi" as provided in section 4.7. Waiver by ZO SKIN HEALTH or Distributor of a breach by the other Party shall not constitute a waiver of any continuing breach or of any future breach by the other Party.

(b) Either Party may immediately terminate this Agreement for cause upon giving written notice of such termination to the other Party as a result of the occurrence of any of the following events:

(i) if the other Party makes a voluntary petition in bankruptcy, insolvency or similar petition;

(ii) an involuntary petition in bankruptcy, insolvency or similar petition is made against the other Party;

(iii) if the other Party becomes insolvent or makes a general assignment for the benefit of creditors, suffers or permits an appointment of a receiver for its business or assets or is liquidated; or

(iv) the enactment or adoption of any change in laws, rules, regulations or governmental policies or other change in circumstances that makes it illegal, impossible or impracticable to export, import, market, sell and distribute the Products to or in the Territory as contemplated in this Agreement.

8.3 Rights Upon Termination. Upon termination or expiration of this Agreement:
(a) all of Distributor's rights granted hereunder shall immediately cease; (b) Distributor shall deliver to ZO SKIN HEALTH, or at ZO SKIN HEALTH's direction shall destroy any and all language translations of ZO SKIN HEALTH's sales and technical literature and materials in Distributor's possession or control, the costs of which shall be borne by the Party whose breach of the Agreement caused the termination, if applicable, otherwise, such costs shall be borne by ZO SKIN HEALTH; (c) Distributor shall return to ZO SKIN HEALTH any Products or Related Products in its possession which were purchased from ZO SKIN HEALTH within one hundred twenty (120) days of the date of termination or expiration of the Agreement, except for Products or Related Products required to fulfill legally binding Customer purchase agreements and quotations for a period of no longer than one hundred twenty (120) days from the date of termination or expiration; (d) Distributor shall immediately return to ZO SKIN HEALTH all other ZO SKIN HEALTH property, including, but not limited to, all original documents and copies which contain ZO SKIN HEALTH Proprietary Information; (e) Distributor shall deliver to ZO SKIN HEALTH such documents and instruments as ZO SKIN HEALTH may reasonably request in connection with the termination or expiration of this Agreement, but in no case shall this exceed the requirements of Section 4.2(h) above; and (f) Distributor shall remove from all of its facilities all signs, billboards and other similar items bearing any of the ZO SKIN HEALTH Marks or identifying Distributor as an authorized distributor of ZO SKIN HEALTH or the Products and Related Products and, within a reasonable period of time following such termination, withdraw or cancel any registrations or filings with governmental authorities relating to Distributors' use of any of the ZO SKIN HEALTH Marks. It is agreed that Products or Related Products held by Distributor that were purchased from ZO SKIN HEALTH more than one hundred twenty (120) days prior to the date of termination shall be deemed "shelf worn" and of no value. ZO SKIN HEALTH shall promptly refund to Distributor the price Distributor paid for the Products and Related Products returned which were purchased within one hundred twenty (120) days of termination. Except as required for Distributor's performance of obligations under this Section 8.3 or Section 8.4, upon expiration or earlier termination of this Agreement, Distributor shall immediately cease and desist from any further use of Proprietary Information of ZO SKIN HEALTH. **Surviving Terms.** The provisions of Sections 2.4, 7, 8.2, 8.3, 9, 10, 11, 12, 13, 14, 15 and 16 and each other provision of this Agreement, which by its nature survives

expiration or termination, shall survive the expiration or the termination of this Agreement by either Party for any reason.

9. ZO SKIN HEALTH'S WARRANTY AND INDEMNITY

9.1 Limited Warranties. Subject to Section 9.2, ZO SKIN HEALTH represents and warrants to Distributor that (a) ZO SKIN HEALTH has been duly incorporated and is validly existing and in good standing under the laws of its jurisdiction of incorporation; (b) ZO SKIN HEALTH (and its authorized signatory) has the necessary corporate power, authority and legal capacity to enter into and to observe and perform its covenants and obligations under this Agreement and has taken all necessary corporate action in respect thereof; (c) this Agreement has been duly executed and delivered by ZO SKIN HEALTH and constitutes ZO SKIN HEALTH's legal, enforceable and binding obligation; (d) ZO SKIN HEALTH's execution and performance of this Agreement will not conflict with the terms or conditions of any other agreement or contract to which it is a party or is otherwise bound; (e) no approval, action or authorization by any governmental authority or agency is required for ZO SKIN HEALTH's execution and performance hereof (except for governmental certifications, registrations, licenses and approvals for the export of the Products and Related Products to the Territory) which has not already been obtained; (f) subject to any other provision in this Agreement to the contrary, ZO SKIN HEALTH owns all ZO SKIN HEALTH Marks and any patents, inventions, discoveries, know-how, confidential information, proprietary information and trade secrets, trademarks, service marks, internet domain names, copyrights and other copyrightable works, including, databases and software and all registrations and applications for registration of any of the foregoing (the "Intellectual Property"), related with the Products and Related Products or used or needed for the operation of the business of ZO SKIN HEALTH, or holds adequate licenses or otherwise possesses sufficient rights to use such Intellectual Property in the United States of America and the Territory; and, (g) all Products and Related :Products shall be of ZO SKIN HEALTH standard quality..

9.2 Disclaimer of Warranties. EXCEPT AS PROVIDED IN SECTION 9.1 ABOVE, ZO SKIN HEALTH MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, WITH REGARD TO THE PRODUCTS, THE RELATED PRODUCTS OR THE ZO SKIN HEALTH MARKS, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

9.3 ZO SKIN BEALTH's Indemnification.

(a) ZO SKIN HEALTH shall defend, indemnify and hold Distributor harmless from and against any claim of a third party that is either reduced to final, non-appealable judgment or settled with ZO SKIN HEALTH's consent, not to be unreasonably withheld, to the extent arising from the gross negligence or willful misconduct of ZO SKIN HEALTH, its employees or agents (other than Distributor or sub-distributors of Distributor) in the performance of its obligations under this Agreement. ZO SKIN HEALTH will pay resulting court costs, damages and legal fees finally awarded, provided Distributor promptly notifies ZO SKIN HEALTH in writing of any such claim, ZO SKIN HEALTH has sole control of the defense and all related

settlement negotiations, and Distributor provides ZO SKIN HEALTH with such assistance and all related information for such defense as ZO SKIN HEALTH may reasonably request. In the event ZO SIGN HEALTH assumes control of the defense of a matter, it shall consult with Distributor on a regular basis and keep Distributor apprised of the status of the action.

(b) ZO SKIN HEALTH shall defend, indemnify and hold Distributor harmless from and against any claim that the Products, ZO SKIN HEALTH technical and sales literature or the ZO SKIN HEALTH Marks infringe in the Territory on a patent, trademark or copyright of a third party (a "Claim"), and pay resulting court costs, direct damages and legal fees incurred in connection with such Claim, provided

(i) Distributor promptly notifies ZO SKIN HEALTH in writing of any such Claim and

(ii) gives ZO SKIN HEALTH sole control of the defense of the same and all negotiations for its settlement or compromise. Should any Products or Related Products become, or in ZO SKIN HEALTH's opinion be likely to become, the subject of a claim of infringement, Distributor shall permit ZO SKIN HEALTH, at ZO SKIN HEALTH's option and expense, to (x) procure for Distributor the right to continue using the Products or Related Products, (y) replace or modify the Products or Related Products to become non-infringing, or (z) if neither procurement nor replacement is commercially reasonable, terminate the sale of the Products or Related Products or terminate this Agreement by giving written notice thereof to the Distributor, with no further obligation or liability to Distributor. Notwithstanding the foregoing, ZO SKIN HEALTH shall have no liability for any claim of infringement to the extent based upon any modification of the Products, ZO SKIN HEALTH technical and sales literature or of the ZO SKIN HEALTH Marks not made by ZO SKIN HEALTH or its authorized representatives with ZO SKIN HEALTH's prior express written consent and, in no event shall ZO SKIN HEALTH have liability for any infringement until such time as ZO SKIN HEALTH receives actual notice of alleged infringement and then the liability shall only be for claims thereafter and only in the event ZO SKIN HEALTH authorizes in writing the continuing use of the same. In the event ZO SKIN HEALTH does not authorize in writing the continuing use of the same, any affected Products shall be considered Defective Products under this Agreement. THE FOREGOING PROVISIONS OF THIS SECTION 9 STATE THE ENTIRE LIABILITY OF ZO SKIN HEALTH WITH RESPECT TO INFRINGEMENT IN THE TERRITORY OF ANY PROPERTY RIGHT OF A THIRD PARTY BY THE PRODUCTS OR THE RELATED PRODUCTS, ZO SKIN HEALTH TECHNICAL AND SALES LITERATURE AND THE ZO SKIN HEALTH MARKS.

10. DISTRIBUTOR WARRANTY AND INDEMNITY

10.1 Limited Warranties. Distributor represents and warrants to ZO SKIN HEALTH that (a) Distributor has been duly incorporated and is validly existing and in good standing under the laws of its jurisdiction of incorporation; (b) Distributor (and its authorized signatory) has the necessary corporate power, authority and legal capacity to enter into and to observe and perform its covenants and obligations under this Agreement and has taken all necessary corporate action in respect thereof; (c) Distributor has all required licensing, and is

authorized, to sell pharmaceutical products in the Territory; (d) this Agreement has been duly executed and delivered by Distributor and constitutes Distributor's legal, enforceable and binding obligations; (e) Distributor's execution and performance of this Agreement will not conflict with the terms or conditions of any other agreement or contract to which Distributor is a party or is otherwise bound; and (f) no approval, action or authorization by any governmental authority or agency is required for Distributor's execution and performance hereof (except for governmental certifications, registrations, licenses and approvals for the marketing, sale and distribution of the Products and Related Products in the Territory) which has not already been obtained.

10.2 Distributor's Indemnification. Distributor shall defend, indemnify and hold ZO SKIN HEALTH harmless from and against any claim of a third party that is either reduced to final, non-appealable judgment or settled with Distributor's consent, not to be unreasonably withheld, to the extent arising out of or resulting from:

(a) Distributor's and sub-distributors' negligent acts or omissions or willful misconduct in the use, import, marketing, promotion, advertising, distribution and sale of the Products or Related Products, including but not limited to Distributor's and sub-distributors' promotional or advertising materials for the Products or Related Products;

(b) Any statements, claims, representations or warranties made by Distributor or any sub-distributor relating to the Products or Related Products, other than as authorized or made by ZO SKIN HEALTH in writing, including but not limited to those made in the ZO SKIN HEALTH technical and sales literature and materials;

(c) Any breach by Distributor and/or any sub-distributor of their obligations under this Agreement or a sub-distribution agreement; and

(d) Any infringement or claim thereof of any patent, copyright, trademark, service mark, trade name, trade secret or any other property right of a third party arising from the use by Distributor or any sub-distributors of (i) any symbol, insignia, name or identifying characteristic other than the ZO SKIN HEALTH's Marks, (ii) any combination of any ZO SKIN HEALTH Mark with any materials not provided or approved by ZO SKIN HEALTH, (iii) any modification to the Products or Related Products not made by ZO SKIN HEALTH, or (iv) any use of the Products or Related Products not authorized or certified by ZO SKIN HEALTH or by the ZO SKIN HEALTH technical and sales literature and materials.

11. LIMITATION OF LIABILITY.

11.1 DISTRIBUTOR AGREES THAT ZO SKIN HEALTH'S TOTAL AGGREGATE LIABILITY UNDER TIDS AGREEMENT SHALL NOT EXCEED THE AGGREGATE AMOUNTS PAID BY DISTRIBUTOR TO ZO SKIN HEALTH FOR PRODUCTS UNDER THIS AGREEMENT DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTHS OR, IN THE EVENT THIS AGREEMENT HAS BEEN IN EFFECT LESS THAN TWELVE (12) MONTHS, TWELVE (12) ANNUALIZED MONTHS FROM THE EFFECTIVE DATE.

11.2 IN NO EVENT WILL ZO SKIN HEALTH BE LIABLE TO DISTRIBUTOR FOR CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR INDIRECT OR PUNITIVE DAMAGES OR LOSS OF GOODWILL, BUSINESS OPPORTUNITY OR PROFIT, IN CONNECTION WITH THE SUP PLY, USE OR PERFORMANCE OF THE PRODUCTS AND RELATED PRODUCTS PROVIDED HEREUNDER, OR IN CONNECTION WITH ANY CLAI M ARISING FROM OR RELATED TO THIS AGREEMENT, EVEN IF DISTRIBUTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF THE EXCLUSIVE REMEDIES STATED HEREIN FAIL OF THEIR ESSENTIAL PURPOSE.

11.3 DISTRIBUTOR FURTHER AGREES THAT THE BENEFITS OF THIS SECTION 11 SHALL EQUALLY APPLY TO PERSONS OR ENTITIES RELATED TO ZO SKIN HEALTH, INCLUDING ITS PAST, CURRENT AND FUTURE EMPLOYEES, ATTORNEYS AND DISTRIBUTORS.

11.4 Notwithstanding the foregoing provisions of this Section 11, this Agreement shall not limit the liability of ZO SKIN HEALTH for personal injury, including death, arising from the gross negligence or willful misconduct of ZO SKIN HEALTH or its employees acting within the scope of their employment, or for strict product Liability to the extent the Parties are prohibited by applicable law from limiting ZO SKIN HEALTH's responsibility therefor.

12. PROPRIETARY RIGHTS.

Except as otherwise provided herein, ZO SKIN HEALTH expressly retains tit e and ownership to all worldwide Intellectual Property rights, including without limitation, design, know-how, patent rights, trademarks, and copyrights in and to the Products or used in connection with Related Products, ZO SKIN HEALTH trademarks, service marks and logos, and any modifications, adaptations, derivative works, and enhancements made thereto.

13. CONFIDENTIALITY.

13.1 **Definitions.** For purposes of this Agreement, "Trade Secrets" means information which: (a) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. "Confidential Information" means information, other than Trade Secrets. that is of value to its owner and is treated as confidential. "Proprietary Information" means Trade Secrets and Confidential Information.

13.2 **Nondisclosure Requirements.** Each Party agrees to hold Proprietary Information of the other Party in strictest confidence and not to copy, reproduce, distribute, manufacture, duplicate, reveal, report, publish, disclose, cause to be disclosed, or otherwise transfer the Proprietary Information of the other Party to any third party, or utilize such Proprietary Information for any purpose whatsoever other than as expressly contemplated by this Agreement or as otherwise agreed to in writing by the Parties. Each Party may only disclose the other Party's Proprietary Information to employees, representatives and consultants of such Party who are under a written obligation to comply with the nondisclosure obligations set forth herein. Each Party agrees to notify the other Party in writing of any suspected or known breach of the

obligations or restrictions set forth in this Section 13. The obligations of this Section 13.2 shall continue for so long as such information constitutes a Trade Secret under applicable law and for Confidential Information, for the term of this Agreement and for a period of three (3) years following termination or expiration of this Agreement. Notwithstanding the foregoing, any previously executed nondisclosure agreement between the Parties shall continue in full force and effect, provided that to the extent of any inconsistency or ambiguity between such non-disclosure
agreement and this Agreement, this Agreement shall take precedence and control and govern in all respects.

13.3 **Exceptions.** The foregoing obligations of this Section 13 shall not apply if and to the extent that: (i) the information communicated was already known to a Party without obligation to keep such information confidential at the time of a Party's receipt from the other Party; (ii) the information communicated was received by a Party in good faith from a third party lawfully in possession thereof and having no obligation to keep such information confidential, or
(iii) a Party establishes that the information communicated was publicly known at the time of such Party's receipt from the other Party or has become publicly known other than by a breach of this Agreement. If either Party is required to disclose all or part of the Proprietary Information of the other Party pursuant to any legal requirement of any country which may have jurisdiction over that Party, such Party shall immediately upon becoming aware that such disclosure is required, give the other Party notice of the circumstances in which the disclosure is required and, subject to applicable law, agree with the other Party on the extent and timing of such disclosure.

14. TRADEMARKS

14.1 **Use of the ZO SKIN HEALTH Marks.** ZO SKIN HEALTH hereby grants to Distributor, and Distributor hereby accepts from ZO SKIN HEALIB, a nonexclusive, nontransferable , royalty-free license to use the ZO SKIN HEALTH Marks set forth on Exhibit C hereto, solely in connection with the marketing, distribution, promotion, advertising and sale of the Products and Related Products in the Territory and in accordance with any ZO SKIN HEALTH standards and instructions, and for no other purpose. ZO SKIN HEALTH may inspect and monitor Distributor's use of the ZO SKIN HEALTH Marks. Distributor shall not adopt, use or register any words, phrases or symbols which are identical to or confusingly similar to any of the ZO SKIN HEALTH Marks or oppose any such registration by ZO SKIN HEALTH. Distributor is not granted any right, title or interest in the ZO SKIN HEALTH Marks other than the foregoing limited license, and Distributor shall not use the ZO SKIN HEALTH Marks as part of Distributor's business entity or trade name or permit any third party to do so.

14.2 **Markings.** Distributor shall not remove or alter any ZO SKIN HEALTH trade names, trademarks, copyright notices, serial numbers, labels, tags or other identifying marks, symbols or legends affixed to any Products or Related Products, documentation or containers or packages. In the event re-labeling, insertion of legends and/or any other regulatory modifications or insertions to labeling, tags or legends are required by Territory's competent regulatory autbori6es, Distributor shall provide advance written notice of such requirements to ZO SKIN HEALTH and the Parties shall work together to satisfy those requirements.

14.3 Infringements. Distributor shall provide prompt notice to ZO SKIN HEALTH of any infringement or potential infringement of the ZO SKIN HEALTH Marks by a third party and of any challenge to its use of the ZO SKIN HEALTH Marks by a third party. ZO SKIN HEALTH reserves the right in its sole discretion to institute any proceedings against third party infringers of the ZO SKIN HEALTH Marks, and Distributor shall refrain from doing so. Distributor shall cooperate fully with ZO SKIN HEALTH in any legal action taken by ZO SKIN HEALTH against such third parties, provided that ZO SIGN HEALTH shall pay all expenses of such action and all damages which may be awarded or agreed upon in settlement of such action shall accrue to ZO SKIN HEALTH.

14.4 Termination of Use. Except as otherwise provided in Section 8.3(c) hereof, upon termination of this Agreement, Distributor shall immediately cease any use of the ZO SKIN HEALTH Marks in any manner. In addition, Distributor hereby appoints ZO SKIN HEALTH its attorney in fact, which appointment is coupled with an interest, to allow ZO SKIN HEALTH to cancel, revoke or withdraw any governmental registration or authorization permitting Distributor to use the ZO SKIN HEALTH Marks in the Territory. To effectuate the purposes of this provision, Distributor shall sign and deliver any documents and perform any further acts as may be reasonably requested by ZO SKIN HEALTH.

14.5 Distributor Web Sites. Notwithstanding anything herein to the contrary, Distributor shall not operate an Internet site that references any of the Products or Related Products or the ZO SKIN HEALTH Marks ("Distributor Web Site") without the prior written consent of ZO SKIN HEALTH, not to be unreasonably withheld. In consideration of ZO SKIN HEALTH allowing Distributor to reference the Products and Related Products or use the ZO SKIN HEALTH Marks in the Distributor Web Site, ZO SKIN HEALTH may provide and Distributor shall post upon mutual agreement on the Distributor Web Site within the Territory, mandatory content, including but not limited to privacy policies, terms of use, copyright and trademark notices, and graphics and trademark policies. Subject to ZO SKIN HEALTH's prior written consent and upon mutual agreement, Distributor shall prominently provide on the home page of the Distributor Web Site within the Territory a link to ZO SKIN HEALTH's Internet site in location, style, size and manner specified by ZO SKIN HEALTH.

14.6 Internet Search Strategies. Distributor may not use any ZO SKIN HEALTH Mark or any of the Products and Related Products in connection with any domain name, directory, address, locator, linking, co-branding, metatag, or with any other Internet search strategy.

15. INSURANCE

15.1 Distributor Insurance. Distributor shall, at its own cost and expense, obtain and maintain in full force and effect the following insurance during the term of this Agreement:

(a) Commercial and Umbrella / Excess General Liability insurance with per occurrence and general aggregate limits, combined, of not less than $1.000,000 per occurrence and in the aggregate;

(b) Products and Completed Operations Liability Insurance with $1,000,000 each claim and general aggregate limits of not less than $5,000,000;

(c) Workers' Compensation Insurance with statutory limits for Workers' Compensation to the extent required in the Distributor's jurisdiction;

(d) Distributor shall obtain a waiver from any insurance carrier with whom Distributor carries Workers' Compensation insurance releasing its subrogation rights against ZO SIGN HEALTH.

(e) Distributor shall furnish certificates of insurance for all of the above noted policies as soon as practicable after the Effective Date and upon renewal or replacement of any such policies. Each insurance policy that is required under this Section 15.1 shall be obtained from an insurance carrier with an A.M. Best rating of at least A-.

15.2 ZO SKIN BEALTH Insurance. ZO SKIN HEALTH shall, at its own cost and expense, obtain and maintain in full force and effect the following insurance or program of self-insurance (provided ZO SKIN HEALTH maintains a financial condition reasonably sufficient to cover such commitments) during the term of this Agreement:

(a) Commercial and Umbrella / Excess General Liability insurance with per occurrence and general aggregate limits, combined, of not less than $5,000,000 per occurrence and in the aggregate;

(b) Products and Completed Operations Liability Insurance with per occurrence and general aggregate limits of not less than $5, 000,000;

(c) Distributor shall be named as additional insured under the Commercial General Liability and Products and Completed Operations Liability insurance policies as respects the products and completed operations outlined in this Agreement, subject to the limitations of those insurance policies.

ZO SKIN HEALTH shall furnish Distributor certificates of insurance for any policies obtained and which reflect that Distributor is an additional insured as soon as practicable after the Effective Date and upon renewal or replacement of any such policies. Any insurance policy that is obtained in satisfaction of this Section 15.2 shall be obtained from an insurance carrier with an A.M. Best rating of at least A-.

16. MISCELLANEOUS.

16.1 Independent Contractors. Notwithstanding anything set forth herein to the contrary, the relationship of the Parties is that of independent contractors, and nothing herein shall be construed to create a partnership, joint venture, franchise, employment or agency relationship between the Parties. Neither Party shall have authority to enter into agreements of any kind on behalf of the other Party and shall not have the power or authority to bind or obligate the other Party in any manner to any third party.

16.2 **Assignment.** Neither Party shall assign or otherwise transfer including by operation of law its rights or obligations under this Agreement without the prior written consent of the other Party.

16.3 **Force Majeure.** Except for Distributor's obligation to pay under Section 7, neither Party shall be liable for any failure to perform or delay in performance of its obligations hereunder caused by circumstances beyond its reasonable control, including, but not limited to, fire, storm, flood, earthquake, explosion, accident, acts of a public enemy or rebellion, insurrection, riot, civil commotion, strikes or other labor disputes, sabotage, epidemic, quarantine or any agency thereof, judicial action, raw product shortages, and any other such external circumstances (a " Force Majeure").

16.4 **Notices.** Notices permitted or required to be given hereunder shall be deemed sufficient if given by (a) registered or certified mail, postage prepaid, return receipt requested,
(b) reliable private courier service, such as Federal Express, or (c) facsimile sent to the respective addresses or facsimile numbers and to the attention of the representatives of the Parties set forth below or at such other addresses or facsimile numbers or representative as the respective
Parties may designate by like notice from time to time. Notices so given shall be effective upon receipt by the Party to which notice is given.

To ZO SKIN HEALTH:

ZO Skin Health, Inc.
Attn: James R. Headley, President & CEO
1 Technology Drive, Suite B-123 Irvine, CA 92618
Fax: (949) 988-7544

With a copy to:

William P. Cates , Esq. Cates Peterson LLP
4100 Newport Place, Suite 230 Newport Beach, CA 92660 Fax:
(949) 724-1190

To Distributor:

CUTERA, INC.
Attn: Rajesh Madan, Vice President of Finance and Legal 3240 Brisbane Blvd.,
Brisbane, CA 94005

Fax: (415) 715-3529

With a copy to:

CUTERA, K.K.
Attn: Chris West, Vice President Pacific Rim, Japan 12-10 Sakuragaoka-cho
Infoss Annex Bldg. 3F Shibuya-ku, Tokyo Japan 150-
0031
Email: cwest@cutera.com

16.5 Arbitration. If any dispute arises between Distributor and ZO SKIN HEALTH relating to the subject matter of this Agreement, Distributor and ZO SKIN HEALTH shall each make a good faith effort to negotiate an amicable settlement of such matter. The Parties agree that, except as otherwise provided below, any dispute, claim or controversy arising out of or relating in any way to the Parties' relationship and/or to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by arbitration in Orange County, California, United States, before one arbitrator. The arbitration shall be administered by Judicial Arbitration and Mediation Services ("JAMS") pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the award may be entered in any court having jurisdiction. To the maximum extent possible, the existence, subject, evidence, proceedings, and ruling resulting from the arbitration proceedings shall be deemed confidential information, and shall not be disclosed by either Party, their representatives, or the arbitrator, except: (a) to the professional advisers of ZO SKIN HEALTH and Distributor; (b) in connection with a public offering of securities by ZO SKIN HEALTH or Distributor; (c) as ordered by any court of competent jurisdiction; or (d) as required to comply with any applicable governmental statute or regulation The arbitrator shall be required to prepare written findings of fact. Notwithstanding the foregoing, either Party may apply to a court of competent jurisdiction for a temporary restraining order, preliminary injunction or other equitable relief, as necessary in order to supplement the claims presented in the arbitration, without breach of this arbitration agreement and without abridgement of the powers of the arbitrator.

16.6 Attorneys' Fees. If any Party brings an action or proceeding to enforce this Agreement or its rights under this Agreement, the Prevailing Party (as hereafter defined) in any such proceeding or action, or appeal thereon, shall be entitled to reasonable attorneys' fees and costs. Such fees and costs may be awarded in the same action or proceeding or recovered in a separate action or proceeding, whether or not such action or proceeding is pursued to decision or judgment. The term, "Prevailing Party" shall include, without limitation, a Party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment., or the abandonment by the other Party of its claim or defense.

16.7 Governing Law. This Agreement has been made, executed and delivered in California, in which state the offices of ZO SKIN HEALTH are located. Accordingly, the Parties invoke the laws of California regarding the protection of their rights and enforcement of their obligations hereunder and they mutually stipulate and agree that this Agreement is in all respects (including, but not limited to, all matters of interpretation, validity, performance and the consequences of breach) to be exclusively construed, governed and enforced in accordance with the internal laws (excluding all conflict of laws rules) of California and any applicable federal laws of the United States of America, as from time to time amended and in effect. The Parties agree that the United Nations Convention on Contracts for the International Sale of

Goods shall not apply in any respect to this Agreement or the Parties.

16.8 No Solicitation of Related Personnel. During the term of this Agreement, and for a period of twenty four (24) months after termination of this Agreement, neither ZO SKIN HEALTH, nor Distributor , nor any subsidiary or parent thereof, shall, directly or indirectly, (i) solicit for employment or consulting engagement, (ii) offer employment to, or (iii) engage the r elated business services of any person who is or was an officer, employee or consultant of the other Party.

16.9 Entire Agreement; Amendments; Severability. This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof, and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. No amendment to or modification of this Agreement, or any waiver of any term or condition of this Agreement will be binding unless in writing and signed by a duly authorized representative of both Parties. The section and subsection headings in this Agreement are inserted solely as a matter of convenience and for reference, and shall not be considered in the construction or interpretation of any provision hereof. If any provision hereof is declared invalid by a court or arbitral tribunal of competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of this Agreement will continue in full force and effect.

16.10 Language. The official language of this Agreement is English. All contract interpretations, notices , and dispute resolutions shall be in English. Any amendments to this Agreement shall be in English. Translations of any of these documents shall not be construed as official or original versions of the documents, or otherwise referred to in the interpretation or construction of the intentions of the Parties hereto.

16.11 Interpretation. This Agreement has been negotiated between unrelated Parties who are sophisticated and knowledgeable in the matters contained in this Agreement and who have acted in their own self-interest. In addition, each Party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law, including Section 1654 of the California Civil Code, as well as any other statute, law, ordinance, or common law principle, or other authority of any jurisdiction of similar effect, or legal decision that would require interpretation of any ambiguities in this Agreement against the Party who has drafted it is not applicable and is hereby waived. The provisions of this Agreement shall not be interpreted or construed against any Party to this Agreement because that Party or any attorney or representative for that Party drafted this Agreement or participated in the drafting of this Agreement.

16.12 Third Party Beneficiaries. Nothing herein express or implied is intended to or will be construed to confer upon or give any person or entity, other than the Parties, any rights or remedies under or by reason of this Agreement.

16.13 Public Announcements. Neither Party will make any press release or other public disclosure regarding this Agreement or the transactions contemplated hereby without the other Party's express prior written consent, except as required under applicable law or regulations, including SEC regulations, if applicable, or by any governmental agency, in which case the Party required to make the press release or public disclosure shall use commercially reasonable efforts to obtain the written approval of the other Party as to the form, nature and

extent of the press release or public disclosure prior to issuing the press release or making the public disclosure.

16.14 Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original hereunder. Each Party agrees to be bound by its own facsimile or telecopy or PDF signature, and accepts the facsimile or telecopy or PDF signature of the other Party hereto.

Accepted and agreed on behalf of:

ZO SKIN HEALTH, INC. CUTERA, INC.

James R. Headley, CEO and President
8/5/13

Name: Title:

EXHIBIT A

TO THE DISTRIBUTION AGREEMENT BETWEEN

ZO SKIN HEALTH, INC. AND CUTERA, INC.

A. PRODUCTS.

ZO SKIN HEALTH skin care products currently subject to this Distribution Agreement include:

ITEM#	PRODUCT DESCRIPTION	SIZE	DISTRIBUTOR PRICE	SUGGESTED PURCHASE PRICE TO CUSTOMERS	SUGGESTED RETAIL PRICE
[redacted]					
[redacted]					
050000	Oilacleanse™	240ml/8oz.			
[redacted]					
050100	Normacleanse™	240ml/8oz.			
050200	Balatone™	180ml/6oz.			

051200 Glycogent™ 75ml/2.5oz.
050300 Cebatrol™ (60 pads) 75ml/2.5oz.
050400 RetamaxThl 75ml/2 .5oz.

[redacted]

[redacted] NIA

050500 Brightenex"" 75ml/2.5oz. 051.600 ZO® Controlled Depth Pee™, NIA
080000 04rx Melamin™ (Rx only) 80g/2,8oz.
080100 08rx Melamix™ (Rx only) 80g/2.8oz,
080200 Tretinoin 0.1% (Rx only) 2091.7oz.
080300 Tretinoin0.05% (Rx only) *20gl.7oz*
051000 Vitascrub™ 16291502.
051800 Invisapeel™ 50ml/1 .7oz.
511000 Hydrafirm™ 1591.5oz.

[redacted]

051400 Aknetrol™ 60mll2oz.

[redacted] NI A 520000 ZO®3-Step Stimulation Peel™ Kit 6 Peels

[redacted]

N/A Oclipse® C SPF 50 120ml/4oz .
N/A LipRebuild™ 15gl.5oz.

- Conversion between milliliters and ounces is approximate.

B. TERRITORY.

The Territory of Distributor shall be Japan, and any other geographic area designated by ZO SKIN HEALTII in writing and agreed to by Distributor for the exercise of Distributor's rights and obligations in the Distribution Agreement.

C. DISTRIBUTOR'S MINIMUM PURCHASE REQUIREMENT

XXXXXXXX Distributor's Minimum Purchase Requirements of Products and Related

[redacted] [redacted] Products combined shall be 2015, to [redacted] .in 2016, to in 2014, and shall _increase to in [redacted] in 2018 (pro 2017, and to [redacted]

rated for the short year). ZO SKIN HEALTH'S remedies on Distributor's failure to meet the Minimum Purchase Requirements of Products and Related Products are set forth in Sections 4.1 and 8.1 of th.is Agreement. The above dollar amounts refer to United States currency.

EXHIBITB

PURCHASE ORDER AND ROLLING FORECAST FORM

Rolling 4-Q Forecast by Units and
Actual P.O Rolling 3-Q Forecast
by Units

Distributor's Name: _ _ _ _ _ _ _ _ _ _ _ _ _ _ _

Distributor's Signature: _ _ _ _ _ _ _ _ _ _ _ Date: _ _ _ _ _ _ _ _ _ _ _

	QUARTER 1				QUARTER2				QUARTER 3				QUARTER4			
' This Quarter represents a Purchase Order				UNIT	This Quarter is a Forecast Q2			UNIT	This Quarter is a Forecast Q3			UNIT	This Quarter is a ForecastQ4			UNIT
PRODUCTS	Oct. 12	Nov. 12	Dec, 12	Qtr. Total	Jan. 13	Feb. 13	Mar. 13	Qtr. Total	Apr. 13	May. 13	Jun_ 13	Q tr. Total	Jul. 13	Aug. 13	Sep . 13	Qtr. Total

(Note: This is just a sample spreadsheet in the format in which to layout your spreadsheet. Not all products are available in all countries. Please use only those products that are appropriate for your market.)

*The Quarter not shaded, signifies an actual Purchase Order and constitutes a binding order. The following three shaded quarters are viewed as forecasts Your signature above approves a shipment of product noted in Quarter one. Unit orders must be placed in master shipper quantities.

This order is subject to all the terms and conditions contained in your International Product Distribution Agreement.

This Form (Purchase order and Rolling 3-Q Forecast by units) must be provided to ZO SKIN HEALTH by February 1, by May 1, by August 1, and by November 1 of each year.

EXHIBITC

ZO SKIN HEALTH MARKS

ZO Skin Health has registered several trademarks with the United States Patent and Trademark Office with respect to its brand and products. They include:

- "ZO"'®, registration no. 3443712
- "Offects"®, registration no. 3818858
- "Ossential"®, registration no. 3593734
- "Ommerse"®, registration no. 3544801
- "Oclipse"®, registration no. 3774720
- "Olluminate"®, registration no. 3534953
- "Oraser"®, registration no. 3534951

ZO Skin Health also has several other trademarks that it regularly uses in commerce. ZO Skin Health has trademark applications pending with the United States Patent and Trademark Office for the following trademarks:

- "Balatone," application no. 85505883
- " Brightenex," application no. 85505893
- "Cebatrol," application no. 85505978
- "Glycogent," application no. 85505981
- " Melamin," application no. 85505963
- " Melamix," application no. 85505965
- " Normacleanse," application no. 85505878
- "Oilacleanse," application no. 85505870
- " Retamax," application no. 85505957;
- " ZO Medical," application no. 85518544
- "ZO Controlled Depth Peel," application no. 85505983

All of the above marks are collectively referred to as the "ZO trademarks." ZO Skin Health actively uses and markets all of the ZO Trademarks in commerce.

Exhibit C, Page 2

For purposes of Section 4.7, the phrase "by Zein Obagi, M.D." may only be used in a font size not materially different than the proportional relationship to the font size of "ZO® MEDICAL" set forth below:

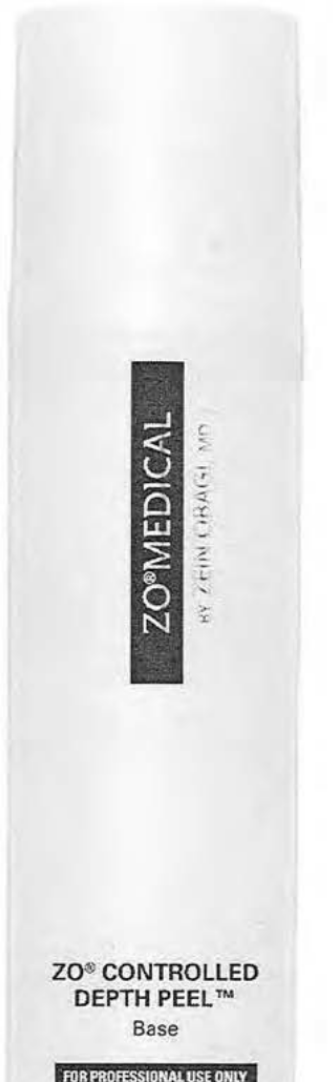


EXHIBIT D

Defective Product Complaint

Below is the written procedure for reporting, processing and handling complaints regarding cosmetic products manufactured by or for ZO SKIN HEALTH, Inc. ("ZO SKIN HEALTH"). ZO SKIN HEALTH may modify, remove, or replace these procedures at any time and from time to time by prior written notice to Distributor.

Upon receipt of a complaint by Distributor or a sub-distributor, the attached Product Complaint Form must be completed and fully identify the complaint and product(s) involved. The complaint must be submitted to ZO SKIN HEALTH's International Sales and Marketing Department, which receives all drug complaints. Whenever possible send the product associated with the complaint with the "Product Complaint Form.

The nature of the complaint must be classified as described below.

Quality Defect:

A product complaint expressing dissatisfaction with the quality of a product, e.g. a complaint expressing dissatisfaction with the attributes of the product, such as missing lot numbers or expiration dates, discoloration of product, leaking caps, etc.

Medical Defect (Adverse Experience):

A product complaint reporting an Adverse Experience associated with the use of the product with humans. An Adverse Experience is an event associated with the product, e.g. use of the product, any significant performance failure or unexpected pharmacological activity; such as rashes, hypo-pigmentation, acne, etc.

COSMETIC PRODUCT COMPLAINT FORM

Distributor Name: _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ Date: _ _ _ _ _ _ _ _ _ _

Type of Complaint Quality/Medical

Name of Account Reporting Complaint: _

Name of _

Address . . . . Phone:(_) ______________

Fax: (_)________________

Name of Product Receiving Complaint: ________________________ Product Size: _______________

(For example: 60 gram)

Lot No: _ _ _ _ _ _ _ _ _ Exp Date(if available): _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _

Description of Complaint: _

Sample Available: Yes/No

(If yes, please obtain sample and forward to International Sales & Marketing Dept.)

Distributor Name . . . .

Distributor's Dat

ZO SKINHEALTHRepresentative who received

EXHIBIT E

Sub-Distributor Agreement Requirements

- All terms defined in the Agreement shall be given the same meaning.
- The sub-distributor must be restricted from directly or indirectly promoting, marketing, selling and distributing the Products and Related Products through itself to Customers located in the Territory and within the Channels of Distribution. This does not prevent Distributor from further restricting the rights
- of sub-distributor with respect to the Products and Related Products.
- Appoint ZO SKIN HEALTH a power of attorney, which appoint shall be coupled with an interest, for purposes of terminating the sub-distribution agreement as set forth below and in the Agreement.
- Restrict sub-distributor's use of ZO SKIN HEALTH sales and technical literature and materials to the use required and approved by ZO SKIN HEALTH to exclusively promote, market, sell and distribute the Products and Related Products in the Territory and within the Channels of Trade.
- Reservation of all other rights related to the Products and Related Products to ZO SKIN HEALTH. Subject to the laws of Japan, restrict sub-distributor from selling Products and Related Products to Customers at a price below the suggested price to Customers set forth in the Agreement or allowing the sale of Products or Related Products to Customers who sell Products or Related Products to the public (i.e., end-user) at a price which is less than the retail price set forth in the Agreement. ZO SKIN HEALTH as attorney in fact shall have the right to terminate the sub-distribution agreement for any breach of these restrictions.
- Require sub-distributor to use commercially reasonable efforts to further the promotion, marketing, sale and distribution of the Products and Related Products in the Territory and within the Channels of Distribution, including but not limited to building brand awareness and participating in any ZO SKIN
- HEALTH sales or promotional programs.
- Require sub-distributor not to make any materially misleading or untrue statements concerning Products and Related Products.
- Restrict sub-distributor from selling, distributing, marketing, advertising or soliciting purchase orders for any product that is competitively positioned to the Products or Related Products. Distributor shall have the right to immediately terminate sub-distributor for any breach of these restrictions. ZO SKIN HEALTH as attorney in fact shall have the right to terminate the sub-distribution agreement for any breach of these restrictions. Notwithstanding the foregoing, if there is not a pattern of violations of this restriction, as determined by ZO SKIN HEALTH, in its discretion, then Distributor shall have a period of 30 days to cure sub-distributor's breach after receipt of written notice of such violation from ZO
- SKIN HEALTH.

Require sub-distributor to comply with all applicable Governmental Requirements and assist ZO SKIN HEALTH in obtaining any licenses, registrations or permits of any kind, and otherwise, to allow ZO SKIN HEALTH to be in compliance with all Governmental Requirements in the Territory.

- Restrict sub-distributor from using any marketing materials until receiving ZO SKJN HEALTH ' s written approval.

Require any return of Products or Related Products to be made through Distributor and not directly to

- ZO SKIN HEALTH.

Require that the sub-distribution agreement be co-terminus with the Agreement.

Require that upon termination or expiration of the sub-distribution agreement: (a) all of sub-distributor's rights granted thereunder shall immediately cease; (b) sub-distributor shall deliver to Distributor any and all language translations of ZO SKIN REALTH's sales and technical literature and materials in sub distributor's possession or control; (c) sub-distributor shall immediately return to Distributor all other ZO SKIN HEALTH property, including, but not limited to, all original documents and copies which contain ZO SKIN HEALTH Proprietary Information; (e) sub-distributor shall remove from its facilities and other premises all signs, billboards and other similar items bearing any of the ZO SKIN HEALTH Marks or identifying sub-distributor as an authorized sub-distributor or distributor of ZO SKIN HEALTH or the Products and Related Products and, within a reasonable period of time following such termination, withdraw or cancel any registrations or filings with governmental authorities relating to sub-distributor's use of any of the ZO SKIN HEALTH Marks. Except as required for sub-distributor's performance of obligations under these requirements, upon expiration or earlier termination of the sub-distribution

agreement, sub-distributor shall immediately cease and desist from any further use of Proprietary Information of ZO SKIN HEALTH.

Restrict sub distributor's use and disclosure of ZO SKIN HEALTH''s Proprietary Information to at least

- the same extent as Distributor is restricted by the Agreement.

- Restrict sub-distributor from operating an Internet side that references any of the Products or Related Products or the ZO SKIN HEALTH Marks without the prior written consent of ZO SKIN HEALTH, which shall also require sub-distributor to pose any information requested by ZO SKIN HEALTH with respect to the Productss, Related Products or the ZO SKIN HEALTH Marks.

Restrict sub-distributor from using any ZO SKIN HEALTH Mark or any Products or Related Products in connection with any domain name, directory, address, locator, linking, co-branding, metatag, or with any other Internet search strategy.

- Make ZO SKIN HEALTH an express and intended third party beneficiary under the sub-distribution

- agreement.

Any and all other requirements placed upon sub-distributors under the Agreement.

EXHIBIT F

Competing Products Subject to 2 Year Exception

1. Elastilash (OMP product)
2. Elastiderm (OMP product)

CERTAIN IDENTIFIED INFORMATION HAS BEEN OMITTED FROM THIS DOCUMENT BECAUSE IT IS NOT MATERIAL AND (I) WOULD BE COMPETITIVELY HARMFUL TO THE REGISTRANT IF PUBLICLY DISCLOSED OR (II) IS INFORMATION THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL. SUCH INFORMATION HAS BEEN MARKED WITH "[***]" TO INDICATE WHERE OMISSIONS HAVE BEEN MADE.

AMENDMENT TO SECTION A OF EXHIBIT A OF THE DISTRIBUTION AGREEMENT FOR THE [ZO MEDICAL / ZO SKIN HEALTH] PRODUCT LINE

1. Preamble. A Distribution Agreement ("Agreement") for the [ZO Medical / ZO Skin Health] line of products was entered into by and between ZO SKIN HEALTH, INC. ("ZO SKIN HEALTH") and Cutera, Inc. ("Distributor") effective as of August 5th, 2013, which is currently in full force and effect. Under Sections 1.6, 1.8, 3.1 and 7.1 of the Agreement, ZO SKIN HEALTH reserved the right to amend Exhibit A from time to time to reflect changes to the Products and Related Products and the prices of the Products and Related Products. Specifically, the Products, Related Products, if any, and corresponding prices are identified in Section A of Exhibit A of the Agreement. ZO SKIN HEALTH now wishes to amend Section A of that exhibit.

2. Amendment to Section A of Exhibit A. ZO SKIN HEALTH hereby amends Section A of Exhibit A to reflect the Products, Related Products, if any, and prices set forth on the Revised Schedule of Products attached hereto and incorporated herein by this reference.

3. Effective Date of Revised Schedule of Products. The revised Products, Related Products, if any, and prices set forth in the Revised Sched ule of Products [shall lake effect on / was effective as of] August 21st, 2013.

4. Waiver of Notice and Consent. Distributor hereby waives notice of the change and consents to the Revised Schedule of Products as of the date set forth in paragraph 3 above.

ZO SKIN HEALTH, INC.

Dated: 8/22/13

By: James R. Headley
President & CEO

"Distributor"

CUTERA, INC.

Dated : 9/4/13

By: Kevin Connors
President & CEO

REVISED SCHEDULE OF PRODUCTS

Section A of Exhibit A is hereby restated as follows:

A. PRODUCTS.

ZO SKIN HEALTH skin care products currently subject to this Distribution Agreement include:

ITEM#	PRODUCT DESCRIPTION	SIZE	DISTRIBUTOR PURCHASE PRICE	SUGGESTED PRICE TO CUSTOMERS	SUGGESTED RETAIL PRICE
060400	Offects Exfoliating Cleanser	150ml/5oz.	[redacted]	[redacted]	[redacted]
060500	Offects Hydrating Cleanser	150ml/5oz.	[redacted]	[redacted]	[redacted]
060700	Offects Exfoliating Polish	65g/2oz.	[redacted]	[redacted]	[redacted]
060800	Oclipse Sun Screen + Primer SPF 30	30ml/1oz.	[redacted]	[redacted]	[redacted]
061000	Oraser Daily Hand Repair SPF 20	100ml/3.4oz.	[redacted]	[redacted]	[redacted]
061200	Oraser Overnight Hand Recovery	100ml/3.4oz.	[redacted]	[redacted]	[redacted]
061400	Oraser Microderm Hand Renewal	30g/1oz.	[redacted]	[redacted]	[redacted]
061600	Oraser Body Emulsion	200m1/8.1oz.	[redacted]	[redacted]	[redacted]
062100	Ossential Daily Power Defense	50ml/1.7oz.	[redacted]	[redacted]	[redacted]
062300	Ossential Growth Factor Serum	30ml/1oz.	[redacted]	[redacted]	[redacted]
062900	Ommerse Daily Renewal Cream	50ml/1.7oz.	[redacted]	[redacted]	[redacted]
063000	Ommerse Overnight Recovery Cream	50ml/1.7oz.	[redacted]	[redacted]	[redacted]
063100	Olluminate Intense Eye Repair	15ml/.5oz.	[redacted]	[redacted]	[redacted]
063500	Ossential Radical Night Repair Plus	30ml/1oz.	[redacted]	[redacted]	[redacted]
064600	OffectsTE-Pads Acne Pore Treatment	60pads	[redacted]	[redacted]	[redacted]
094800	Level I: Daily Skincare Program	4 Product Regimen	[redacted]	[redacted]	[redacted]
090502	Level II: Anti-Aging Program	5 Product Regimen	[redacted]	[redacted]	[redacted]
093602	Level III: Aggressive Anti-Aging Program	6 Product Regimen	[redacted]	[redacted]	[redacted]

• Conversion between milliliters and ounces is approximate.

REVISED SCHEDULE OF PRODUCTS

Section A of Exhibit A is hereby restated as follows:

A. PRODUCTS.

ZO SKIN HEALTH skin care products currently subject to this Distribution Agreement include:

ITEM #	PRODUCT DESCRIPTION	SIZE	DISTRIBUTOR PURCHASE PRICE	SUGGESTED PRICE TO CUSTOMERS	SUGGESTED RETAIL PRICE
050000	Oilacleanse™	240ml/8oz.	[redacted]	[redacted]	[redacted]
050100	Normacleanse™	240ml/8oz.	[redacted]	[redacted]	[redacted]
050200	Balatone™	180ml/6oz.	[redacted]	[redacted]	[redacted]
051200	Glycogen™	75ml/2.5oz.	[redacted]	[redacted]	[redacted]
050300	Cebatrol™ (60 pads)	75ml/2.5oz.	[redacted]	[redacted]	[redacted]
050400	Retamax™	75ml/2.5oz.	[redacted]	[redacted]	[redacted]
050500	Brightenex™	75ml/2.5oz.	[redacted]	[redacted]	[redacted]
051600	ZO® Controlled Depth Peel™	NIA	[redacted]	[redacted]	[redacted]
080000	04rx Melamin™ (Rx only)	80g/2.8oz.	[redacted]	[redacted]	[redacted]
080100	08rx Melamix™ (Rx only)	80g/2.8oz.	[redacted]	[redacted]	[redacted]
080200	Tretinoin 0.1% (Rx only)	20g/.7oz.	[redacted]	[redacted]	[redacted]
080300	Tretinoin 0.05% (Rx only)	20g/.7oz	[redacted]	[redacted]	[redacted]
051000	Vitascrub™	162g/5oz.	[redacted]	[redacted]	[redacted]
051800	Invisapeel™	50ml/1.7oz.	[redacted]	[redacted]	[redacted]
511000	Hydrafirm™	15g/.5oz.	[redacted]	[redacted]	[redacted]
051400	Aknetrol™	60ml /2oz.	[redacted]	[redacted]	[redacted]
520000	20®3-Step Stimulation Peel™ Kit	6 Peels			
051700	Oclipse® C SPF 50	120ml/4oz.			
063200	LipRebuild™	15g/.5oz.			

• Conversion between milliliters and ounces is approximate.

CERTAIN IDENTIFIED INFORMATION HAS BEEN OMITTED FROM THIS DOCUMENT BECAUSE IT IS NOT MATERIAL AND (I) WOULD BE COMPETITIVELY HARMFUL TO THE REGISTRANT IF PUBLICLY DISCLOSED OR (II) IS INFORMATION THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL. SUCH INFORMATION HAS BEEN MARKED WITH "[***]" TO INDICATE WHERE OMISSIONS HAVE BEEN MADE.

AMENDMENT TO THE DISTRIBUTION AGREEMENT

This Omnibus Amendment to the two Distribution Agreements (the "**Amendment**"), is made by and between ZO Skin Health, Inc., a California corporation, having its principal place of business at 9685 Research Drive, Irvine, CA 92618 ("**ZO SKIN HEALTH**"), and Cutera, Inc., a Delaware corporation, having its principal place of business at 3240 Bayshore Blvd., Brisbane, CA 94005 ("**Distributor**," and together with ZO SKIN HEALTH, the "**Parties,**" and each, a "**Party**"), effective as of January 25, 2021 ("**Amendment Effective Date**").

WHEREAS, the Parties have entered into two Distribution Agreements, each dated August 5, 2013 (as such agreements have been amended, collectively, the "**Existing Agreement**"); and

WHEREAS, the Parties hereto desire to amend the Existing Agreement on the terms and subject to the conditions set forth herein.

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

1. Definitions. Capitalized terms used and not defined in this Amendment have the respective meanings assigned to them in the Existing Agreement.

2. Amendments to the Existing Agreement. As of the Amendment Effective Date, the Existing Agreement is hereby amended or modified as follows:

(a) Section 4.10 of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"Notwithstanding any agreement between the Parties to the contrary, in exchange for Distributor's binding commitment to purchase from ZO SKIN HEALTH a minimum of [redacted] US total of Products and Related Products between January 1, 2021 and June 15, 2021 and commitment to provided monthly rolling 12 month forecasts, ZO SKIN HEALTH will provide to Distributor [redacted] of Net Sales as Free Goods and Related Products and collaterals and a [redacted] discount on the prices of Products and Related Products on all Products and Related Products so shipped by ZO SKIN HEALTH during said period. For clarity, for any shipments already made during this period predating the execution of this Agreement, a true up of the discount will be made on the next order. In the event that Distributor fails to meet its commitments, any discount already provided shall be invoiced by ZO SKIN HEALTH and paid back by Distributor."

(b) Section 8.1 of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"This Agreement shall commence on the Effective Date and shall continue in effect until June 30, 2021, unless otherwise terminated pursuant to the provisions of this Agreement."

(c) Notwithstanding any agreement between the parties to the contrary, absent new agreement of the parties, ZO SKIN HEALTH shall not modify the price of any Product or Related Product prior to June 30, 2021, provided, that ZO SKIN HEALTH shall set the price of any Product or Related Product, new or otherwise, not currently being offered in market by Distributor.

3. Date of Effectiveness; Limited Effect. This Amendment will become effective as of the date first written above (the "**Effective Date**"). Except as expressly provided in this Amendment, all of the terms and provisions of the Existing Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the Parties. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Existing Agreement or as a waiver of or consent to any further or future action on the part of either Party that would require the waiver or consent of the other Party. On and after the Effective Date, each reference in the Existing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Existing Agreement in any other agreements, documents, or instruments executed and delivered pursuant to, or in connection with, the Existing Agreement, will mean and be a reference to the Existing Agreement as amended by this Amendment.

4. Miscellaneous.

(a) This Amendment is governed by and construed in accordance with, the laws of the State of California, without regard to the conflict of laws provisions of such State.

(b) This Amendment shall inure to the benefit of and be binding upon each of the Parties and each of their respective permitted successors and permitted assigns.

(c) The headings in this Amendment are for reference only and do not affect the interpretation of this Amendment.

(d) This Amendment may be executed in counterparts, each of which is deemed an original, but all of which constitute one and the same agreement. Delivery of an executed counterpart of this Amendment electronically or by facsimile shall be effective as delivery of an original executed counterpart of this Amendment.

(e) This Amendment constitutes the sole and entire agreement between the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

[REMAINDER OF THIS SECTION SHALL REMAIN BLANK]

IN WITNESS WHEREOF, the Parties have executed this Amendment on the date first written above.

ZO SKIN HEALTH, INC.

DocuSigned by:

By Mark Williams

Name: Mark Williams

Title: CEO & General Counsel

CUTERA, INC.

DocuSigned by:

By Dave Mowry

Name: Dave Mowry

Title: CEO

CERTAIN IDENTIFIED INFORMATION HAS BEEN OMITTED FROM THIS DOCUMENT BECAUSE IT IS NOT MATERIAL AND (I) WOULD BE COMPETITIVELY HARMFUL TO THE REGISTRANT IF PUBLICLY DISCLOSED OR (II) IS INFORMATION THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL. SUCH INFORMATION HAS BEEN MARKED WITH "[***]" TO INDICATE WHERE OMISSIONS HAVE BEEN MADE.

AMENDMENT TO THE DISTRIBUTION AGREEMENT

This Amendment (the **"Amendment")** to the Existing Agreement (as hereinafter defined), is made by and between ZO Skin Health, Inc., a California corporation, having its principal place of business at 9685 Research Drive, Irvine, CA 92618 **(''ZO SKIN HEALTH"),** and Cutera, Inc., a Delaware corporation, having its principal place of business at 3240 Bayshore Blvd., Brisbane, CA 94005 **("Distributor,"** and together with ZO SKIN HEALTH, the **"Parties,"** and each, a **"Party"),** effective as of June 14, 2021 **("Amendment Effective Date").**

WHEREAS, the Parties have entered into a Distribution Agreement, dated August 5, 2013, which was amended by an amendment effective August 21, 2013 ("August 2013 Amendment") and an amendment effective January 25, 2021 ("January 2021 Amendment") (collectively, the **"Existing Agreement");** and

WHEREAS, the Parties hereto de sire to amend the Existing Agreement on the terms and subject to the conditions set forth herein.

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

I. Definitions. Capitalized terms used and not defined in this Amendment have the respective meanings assigned to them in the Existing Agreement.

2. Amendments to the Existing Agreement. As of the Amendment Effective Date, the Existing Agreement is hereby amended or modified as follows:

(a) Section 1.3. of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"1.3. **"Channels of Distribution"** means distribution through physicians' offices and medical spas where a physician is on-site and responsible for administering of the Products; but, it excludes all other channels of distribution including non-physician owned medical spas (including salons), resort spas, mass merchants, warehouse clubs, traditional food and drug stores, web sites and e-tailers (e.g., drugstore.com, etc.). The Products and Related Products sold to Distributor under this Agreement may be resold over the internet through Distributor's website for the sole purpose of fulfilling orders of existing Customers. No other internet sales are authorized by this Agreement. Distributor agrees to establish and maintain appropriate measures to ensure that the Products and Related Products are only distributed within the Territory and sold pursuant to the terms of this Agreement."

(b) Section 1.5. of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

“1.5. **“Customer”** means a physician office or a medical spa owned, at least in part, by a physician and, in either case, where a physician is regularly on-site and responsible for prescribing and administering the Products to patients; provided that said Customer also meets all of the following requirements: (i) uses the Products in servicing its patients; (ii) purchases the Products solely from the Distributor or an approved sub-distributor in the Territory; (iii) holds the Products for resale or for use by or on its patients; and sells the Products, solely within the Channels of Distribution and solely within the Territory.

(c) Section 1.6. of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"1.6. **"Distributor Purchase Prices"** means the prices payable by Distributor to ZO SKIN HEALTH as consideration for the purchase by Distributor of the Products and Related Products, as set forth in Exhibit A, as may be adjusted only in accordance with Section 6.7.

(d) Section 2.6. of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"2.6. Pricing. ZO SKIN HEALTH will provide Distributor from time-to-time in writing with a suggested price for the resale of the Products and Related Products to end-users *(i.e.*, patients or other end-customers of Customers) (the **"MSRP").** The MSRP is not binding, and neither Distributor, its sub-distributors or its Customers shall be obligated to sell any Products nor Related Products to end users at or above such MSRP. ZO SKIN HEALTH may increase the MSRP in its sole and absolute discretion, provided, that, unless otherwise agreed by the Parties:

(a) such increases occur no more frequently than [redacted] per calendar year; and

(b) the amount of such increase shall not exceed, in the aggregate across all Products and Related Products, the greater of:

(i) the percentage rate of increase for the immediately preceding 12-month period in the Consumer Price Index, All Urban Consumers, United States, All Items (1982 - 1984 = 100), as published by the Bureau of Labor Statistics of the United States Department of Labor or, if such index is not available, such other index as the parties may agree most closely resembles such index; and

(ii) [redacted] Prior to increasing the MSRP, ZO SKIN HEALTH will engage in good faith discussions with Distributor to understand any potential negative impact on sales of Products in the Territory that may result from such increase in the MSRP."

(e) Section 3.1. of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"3.1. Related Products. ZO SKIN HEALTH may from time to time offer products for sale related to the "ZO Medical" or "ZO Skin Health" product lines which are not listed in Exhibit A ("Related Products"). Such Related Products, new or not, may be unilaterally added to Exhibit A by ZO SKIN HEALTH at any time and shall thereafter become subject to this Agreement. If ZO SKIN HEALTH, in its sole discretion, chooses to offer such Related Products in the Territory during the Term of this Agreement, Distributor shall have the exclusive right, including with respect to ZO SKIN HEALTH, to promote, market, sell, and distribute such Related Products in the Territory within the Channels of Distribution. For purposes of clarification, ZO SKIN HEALTH shall not, directly or indirectly through any agents, representatives or distributors, except through Distributor hereunder, market, advertise, promote, sell or distribute the Products or Related Products in the Territory."

(f) Section 4.1 (b) of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"(b) Minimum Purchase Requirement. During the term of this Agreement, Distributor shall make at least the minimum purchases of Products and Related Products from ZO SKIN HEALTH as required by Exhibit A. Purchases counted toward the Minimum Purchase Requirement for any period provided for herein shall be based upon ZO SKIN HEALTH's net invoice prices for the Products and Related Products which are ordered by Distributor prior to the expiration of the applicable calendar year. For calendar years subsequent to those listed in Exhibit A, the Minimum Purchase Requirement for each such subsequent year of the Term shall be set at [redacted] of the Minimum Purchase Requirement for the year immediately preceding that particular year."

(g) Section 4.2. of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"4.2. Promotion and Marketing. Distributor shall use commercially reasonable efforts to further the promotion, marketing, sale and distribution of the Products and Related Products in the Territory, including but not limited to, building brand awareness and value. During the term of this Agreement, the Distributor shall expend on a calendar year basis, for the advertising of the Products and Related Products in the Territory through media advertisements, public relations, promotions, merchandising, tradeshows, workshops, and displays (in each case as previously approved by ZO SKIN HEALTH in writing), not less than an amount equal to [redacted] of net sales of the Product and Related Products made during such calendar year by Distributor and its sub-distributors, at the discretion of the Distributor. The cost of general media (including agency fees, production fees and cooperative advertising); over-labeling logistics costs, gift-with-purchase; promotion displays and their installation costs; public relations activities; samples and testers; incentive programs intended to drive revenue and Collateral Materials may be applied toward the minimum advertising expenditure required above. Distributor shall upon written request provide ZO SKIN HEALTH with photographs, ad copy, and all other relevant documents relating to its public relations efforts. ZO SKIN HEALTH may, in its reasonable discretion, prepare promotional programs for the Products and Related Products in the Territory and Distributor agrees to cooperate with ZO SKIN HEALTH in sales or promotional programs prepared by ZO SKIN HEALTH. Distributor shall not make, nor permit its sub-distributors to make, any materially misleading or untrue statements concerning the Products or Related Products. In addition:

(a) Distributor shall maintain an office and well-trained staff to promote the sale of the Products and Related Products, and to solicit orders for them, and to timely train Customers on the Products and Related Products and ZO SKIN HEALTH protocols, within the Territory.

(b) Distributor shall provide full and accurate advice and assistance to Customers when soliciting orders for Products and Related Products, consistent with the ZO sales and technical literature.

(c) Distributor shall handle promptly, efficiently, courteously and properly all inquiries, quotations, correspondence, orders and complaints in connection with the Products and Related Products.

(d) Distributor shall promptly inform ZO SKIN HEALTH of any complaints that it receives that are of either a material or a recurring nature and shall promptly inform ZO SKIN HEALTH of all adverse event complaints that it receives regarding the Products and Related Products.

(e) Distributor shall use its best commercial effort to ensure that the location and display of the Products and Related Products in each location in which the Products and Related Products are sold in the Territory will be at least as favorable as the location of any similar or competitive products.

(t) Distributor shall ensure that the Products and Related Products will not be displayed or promoted in any manner or environment which misleadingly suggests that they are related to the Obagi® brand of products or the products of any other company or that Dr. Zein Obagi promotes or is related to Obagi Medical Products, Inc. or its products, or any other company or its products.

(g) If Distributor shall be affiliated with any Customer of the Products and Related Products, Distributor shall not favor such Affiliate over any other Customer.

(h) Distributor shall make no representation, guarantee or warranty, either express or implied, with respect to any Product or Related Product, beyond those contained in ZO SKIN HEALTH approved package labels and products instructions, without the express written consent of ZO SKIN HEALTH or as otherwise required by the laws of the jurisdiction in which the Products and Related Products are offered for sale in the Territory. Distributor shall not have the right, power or authority to make any representation, guarantee or warranty on behalf of ZO SKIN HEALTH. Distributor shall not make or cause to be made or authorize any modifications or additions to the Products or Related Products without the express prior written consent of ZO SKIN HEALTH.

(i) Distributor shall at all times keep and maintain at its office set forth above accurate accounts and records of all transactions pe1taining to the Products and Related Products and to this Agreement. All such accounts and records shall be retained by Distributor during the term of this Agreement and for a period of three (3) years after the date of any termination of this Agreement and, upon mutual consent of the Parties, shall be subject to examination and audit by ZO SKIN HEALTH or its authorized representative, upon ten (10) business days' notice during normal business hours and no more than once per calendar quarter. Distributor shall at all times promptly make available to ZO SKIN HEALTH such of its records as are necessary for ZO SKIN HEALTH to fulfill any recall or other obligation it deems necessary under any applicable law, rule or regulation and such obligations shall survive and continue after termination of this Agreement."

(h) Section 4.3. of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"4.3. Competing Products. During the term of this Agreement, Distributor shall not sell, distribute, market, advertise or solicit purchase orders for any product that is competitively positioned in the Territory with ZO SKIN HEALTH's products, including without limitation, the Products and Related

1 The Obagi® trademark is a trademark of Obagi Medical Products, Inc. and is not affiliated with ZO SKIN HEALTH in any way. ZO SKIN HEALTH claims no ownership to the Obagi® trademark.

Products. The term "competitively positioned" refers to medical and cosmeceutical skin care products marketed and sold through the Channels of Distribution, a list of currently known competitively positioned products is attached as Exhibit F to this Amendment and shall be modified by ZO SKIN HEALTH from time to time. Except as provided above, Distributor shall promptly terminate any sub distributor who without the written consent of the Parties sells, distributes, markets, advertises or solicits purchase orders for any product that is competitively positioned with ZO's Products in the Territory. Distributor shall advise ZO in writing of (i) any known or suspected duplication of the Products, (ii) competitors in the Territory competing with the Products, and (iii) any change in regulations and/or practices within the Territory affecting the use of the Products. Distributor and its sub-distributors, if applicable, shall at all times make ZO's Products the primary focus of their marketing and sales efforts.

(i) Section 4.5. of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"4.5. Governmental Requirements. Subject to the terms of this Agreement, Distributor shall, and shall require its sub-distributors to: (i) comply with all applicable laws and regulations of the United States and the Territory, including but not limited to, export laws and restrictions and regulations of the United States Department of Commerce or other United States or foreign agency or authority, and shall not export, or participate in any transaction which may involve the export or re-export of any Products or Related Products in violation of any such restrictions, laws or regulations; (ii) assist ZO SKIN HEALTH in obtaining any required registrations, licenses and permits for the Products and Related Products and the marketing, sale and distribution of the Products and Related Products in the Territory by supplying such documentation or information as may be reasonably requested by ZO SKIN HEALTH; and (iii) obtain and maintain during the term of this Agreement all governmental approvals and licenses necessary to import the Products and Related Products into the Territory. If any governmental registration, license, or approval for the marketing, sale and distribution of the Products is required, Distributor shall obtain ZO SKIN HEALTH's written approval prior to commencing any registration or approval process. Unless otherwise required by applicable law, all registrations, licenses and approvals for the Products and Related Products and the distribution of the Products and Related Products in the Territory shall be in the name of and shall be solely owned by ZO SKIN HEALTH. ZO SKIN HEALTH will reimburse Distributor for any pre-approved and reasonable fees for assistance in obtaining such registrations, licenses and approvals that are in ZO SKIN HEALTH's name or that are transferred to ZO SKIN HEALTH on termination of this Agreement. Distributor shall provide ZO SKIN HEALTH with a copy of all registrations, licenses and approvals obtained or received for the Products and Related Products and for the distribution of the Products and Related Products in the Territory within thirty (30) calendar days of Distributor's receipt of each such registration, license and approval. Should Distributor, either prior to this Agreement or at any time after execution of this Agreement, obtain a registration, license or approval for the Products and Related Products or for the distribution of the Products and Related Products in the Territory, Distributor agrees to immediately take the appropriate action to transfer such registration, license or approval to ZO SKIN HEALTH as required above and as is consistent with the spirit and intent of this section 4.5. In furtherance of, but without limiting the foregoing, Distributor represents that it has read, understood and will comply and cause its sub-distributors to comply with the anti-bribery provisions of the U.S. Foreign Corrupt Practices Act. Distributor covenants and agrees that it shall promptly notify ZO SKIN HEALTH of any disciplinary action or change in status with regard to any license, permit or authorization required by law. For its part, ZO SKIN HEALTH recognizes the need for the Distributor to comply with all local legal requirements and that from time to time such legislation may prevent the Distributor from fully complying with one or other terms of this Agreement. In such cases, providing sufficient evidence is

provided, ZO SKIN HEALTH will not deem a failure to comply with that term or condition a breach of this Agreement. In the event any of the Products or Related Products are not able to receive a governmental registration as a result of Product ingredients or labeling, ZO SKIN HEALTH and Distributor shall cooperate to explore options for alternate ingredients and/or labeling, taking into consideration the costs incurred by ZO SKIN HEALTH to formulate and manufacture an additional Product, the number of SKUs and the expected volume of sales of said Products in the Territory and elsewhere. Ultimately, ZO SKIN HEALTH has the unilateral discretion to decide whether to re formulate the Products for sale in the Territory or to remove the Products from distribution within the Territory. Distributor's obligation to diligently pursue all necessary governmental registrations shall be a material term of this Agreement and, if breached, as determined solely in ZO SKIN HEALTH's reasonable discretion, ZO SKIN HEALTH shall have the right, but not the obligation, to terminate this Agreement.

(j) Section 4.7. of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"4.7. Marketing Materials. Distributor shall ensure that all of its marketing materials at all times comply with the latest ZO SKIN HEALTH sales and technical literature. All marketing materials created by a Party shall be reviewed and responded to in writing within 15 business days by the other Party. The Parties agree to consult in good faith to resolve any issues relating to such materials, however ZO SKIN HEALTH has the sole right to reject, in its discretion, any Distributor marketing materials solely related to ZO SKIN HEALTH. If Distributor's marketing materials contain promotional materials related to both Parties' products, ZO SKIN HEALTH shall have the right to approve all marketing materials, however, such approval shall not be unreasonably withheld. Such marketing materials shall contain copyright, trademark and accreditation notices as prepared by ZO SKIN HEALTH in accordance with applicable laws. An approved sub-distributor shall not be permitted to create any marketing materials with respect to Products or Related Products. Further, the name " Obagi" may only be used to sell, market, or advertise products or services if "Obagi" is part of the phrase "by Zein Obagi, M.D." and so long as the phrase "by Zein Obagi, M.D." appears in a font size not materially different than the proportional relationship to the font size of "ZO SKIN HEALTH" that is shown in Exhibit C, which may be modified by ZO SKIN HEALTH from time to time. Notwithstanding the foregoing, ZO SKIN HEALTH may terminate Distributor's right to use the name "Obagi" at any time upon written notice to Distributor. Under no circumstances shall the name "Obagi" be used as part of any domain name or other designation or branding of Distributor or its business. Any violation of the requirements set forth in the foregoing clauses of this Section 4.7 shall be considered a material breach of this Agreement. Notwithstanding the foregoing, any marketing materials that consistent, in all material respects, with marketing materials previously reviewed by the other Party, need not be submitted for review absent any material changes.

In addition to the foregoing, Distributor shall:

(a) Ensure that at least one(!) marketing person on Distributor's staff attends brand training at least one (l) time per year;

(b) Ensure that every marketing, sales and management person participates in ZO SKIN HEALTH brand and marketing webinars;

(c) Maintain up-to-date software as required by ZO SKIN HEALTH to utilize ZO SKIN HEALTH sales and technical literature, including without limitation marketing collateral;

(d) Distributor shall actively participate in social media to advertise, market and promote Products consistent with the ZO SKIN HEALTH sales and technical literature to the extent available in the Territory. This includes using ZO SKIN HEALTH provided social media materials and translating them for use in the Territory (not all materials must be used). Further, Distributor shall respond to all social media direct messaging in a timely fashion. In the event other, non-social-media, digital or electronic marketing opportunities are utilized by ZO SKIN HEALTH, then Distributor shall likewise participate in such digital or electronic marketing opportunities to the extent they exist in the Territory;

(e) Provide ZO SKIN HEALTH with marketing collateral forecasts from time to time as requested by ZO SKIN HEALTH. Distributor's provision of the above-mentioned forecast shall not be interpreted as a commitment from Distributor to buy or take any of the marketing collateral, unless otherwise agreed to in writing by the Parties; provided, that, ZO SKIN HEALTH may refuse to ship marketing collateral to Distributor, in ZO's sole discretion, in the event they exceed any forecast in order to ensure availability of marketing collateral to other territories, including the United States; and

(f) Ensure participation in such other mandatory brand and marketing training as offered by ZO SKIN HEALTH."

(k) Section 4.10. of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"4.10. Free Goods and Discounts. During the term of this Agreement, ZO SKIN HEALTH will provide to Distributor: (a) [redacted] of Net Sales worth as Free Goods and Related Products and collaterals, and (b) a [redacted] discount on the Distributor Purchase Prices of Products and Related Products set forth in Exhibit A. Free Goods allowances and discounts will be calculated on each order and shall not roll over from one order to the next, or from one year to the next."

(l) Section 6.7. of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

[redacted] "6. 7. Price Changes: Notification. Distributor Purchase Prices offered to Distributor are and shall remain based on standard distributor discounts from current US pricing through the end of calendar year 2021. The parties agree that ZO SKIN HEALTH may thereafter, in its sole discretion, increase the Distributor Purchase Price; provided, that the Distributor Purchase Price of a Product or Related Product will not exceed an amount equal to

(m) Section 6.10. of the Existing Agreement is hereby deleted and replaced in its entirety with the following:

"6.10. Product Changes. ZO SKIN HEALTH, with no less than sixty (60) days' prior written notice to Distributor, may:

(a) alter the specifications for any Products or Related Products, subject to Distributor's prior written confirmation that Distributor has obtained the required regulatory approval from the governmental authorities of the applicable territories;

(b) discontinue the development of any new Products, whether or not such new Products have been announced publicly;

(c) discontinue the sale of any Products, provided that, upon any such discontinuance of a Product that accounts for at least ten (10)% of Distributor's aggregate sales of Products for the proceeding three (3) month period, ZO SKIN HEALTH shall reduce Distributor's Minimum Purchase Requirements by a prorated amount based upon the proportion of Distributor's sales attributable to such Product; and

(d) commence the development and distribution of new Products and Related Products which may make any current Products or Related Products obsolete, provided that, in the event that any such development or distribution results in a Product that accounts for at least ten (10)% of Distributor's sales for the proceeding three (3) month period becoming obsolete, ZO SKIN HEALTH shall reduce Distributor's Minimum Purchase Requirements by a prorated amount based upon the proportion of Distributor's sales attributable to such Product.

(n) Section 7.l. of the Existing Agreement is hereby deleted and replaced in its entirety with the following:

"7. l. Products and Related Products Prices. Subject to the provisions of Sections 6.8 and 6.9 above, ZO SKIN HEALTH may adjust the Distributor Purchase Price only as expressly permitted in Section 6.7.

(o) Section 7.3. of the Existing Agreement is hereby deleted and replaced in its entirety with the following:

"7.3. Delinquent Accounts. All amounts due and owing to ZO hereunder, but not paid by Distributor when due (the "Delinquent Amount"), shall become immediately due and owing. ZO will hold all shipments until the Delinquent Amount is paid in full. The Delinquent Accounts shall, for the first thirty (30) days of delinquency (the "Initial Delinquency"), bear interest at the rate of the lesser of:
(i) four points (e.g., if the prime rate is 2.5%, then the interest will be 6.5%) per annum above the then applicable prime interest rate announced by the Wall Street Journal for 90-day U.S. dollar loans to prime commercial customers in the United States (or a similar prime rate selected by ZO if said rate is no longer quoted); or (ii) the maximum lawful interest rate permitted under California law to Distributor. Any Delinquent Accounts not paid following the Initial Delinquency shall bear interest at the lesser of (x) eighteen percent (18%) per annum or (y) the highest rate permitted by California law to Distributor, until paid. Such interest shall compound on the first day of each calendar month. Timely payment is a material term of this Agreement. Failure by Distributor to pay any amount due when due shall excuse ZO from its obligation to ship any further Products and shall subject Distributor to immediate termination of this Agreement at ZO's option."

(p) Section 8.1. of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"8.1. Term. This Agreement shall continue in effect until three (3) years from the Amendment Effective Date (the "Amended Term"), unless otherwise terminated pursuant to the provisions of this Agreement. Upon expiration of the Amended Term, this Agreement shall automatically renew for two additional successive one (1) year terms unless either Party provides written notice of nonrenewal at least ninety (90) days prior to the end of the then-current term (each a "Renewal Term" and together with the Amended Term, the "Final Renewal Term", unless sooner terminated as provided in Section 8.2, collectively define the "Term"). If the Term is renewed for any Renewal Terms pursuant to this Section, the terms and conditions of this Agreement during each such Renewal Term shall be the same as the terms and conditions in effect immediately prior to such renewal. If either Party provides timely notice of its intent not to renew this Agreement, then, unless otherwise sooner terminated in accordance with its terms, this Agreement shall terminate on the expiration of the then-current Term.

(a) Any reference to "the term of this Agreement" or "the term of the Agreement" contained in the Existing Agreement will mean and refer to the "Term" as defined in Section 8.1 of this Amendment.

(b) If the Parties continue to have a business relationship pursuant to this Agreement after the expiration of the Final Renewal Term, either Party may thereafter terminate the relationship, without cause, by giving the other Party thirty (30) days' advance written notice of the termination."

(q) Section 8.3. is hereby deleted in its entirety and replaced with the following:

"8.3. Rights Upon Termination. Upon termination or expiration of this Agreement, subject to Distributor's sell-off rights as set forth herein: (a) all of Distributor's rights granted hereunder shall immediately cease; (b) Distributor shall deliver to ZO SKIN HEALTH, or at ZO SKIN HEALTH's direction shall destroy any and all language translations of ZO SKIN HEALTH's sales and technical literature and materials in Distributor's possession or control, the costs of which shall be borne by the Party whose breach of the Agreement caused the termination, if applicable, otherwise such costs shall be borne by ZO SKIN HEALTH; (c) ZO SKIN HEALTH may, at its option, repurchase the remainder of Distributor's existing inventory of Products and Related Products at the prices Distributor offers such Products and Related Products to its Customers, provided that, if ZO SKIN HEALTH does not exercise such option, Distributor shall have the right to, in accordance with the applicable terms and conditions of this Agreement, sell off its existing inventory of Products and Related Products (and to retain and use related sales and technical literature and materials and other documents and ZO SKIN Health Proprietary Information as reasonably required in support of such sell-off); (d) Distributor shall immediately return to ZO SKIN HEALTH all other ZO SKIN HEALTH property, including, but not limited to, all original documents and copies which contain ZO SKIN HEALTH Proprietary Information; (e) Distributor shall deliver to ZO SKIN HEALTH such documents and instruments as ZO SKIN HEALTH may reasonably request in connection with termination or expiration of this Agreement, including, but only if the Parties agree to terminate the Agreement or Distributor terminates the Agreement without cause, the list of Customers that the Products and Related Products were sold to within the Territory, but in no case shall this exceed the requirements of Section 4.2(i); (f) Distributor shall take all action necessary to transfer, assign and convey to ZO SKIN HEALTH all governmental registrations relating to the Products and Related Products, import of the Products and Related Products, and the marketing, sale and distribution of the Products and Related Products in exchange for

reimbursement of such expenses as necessary to facilitate this transfer, assignment or conveyance; and
(g) except for those items necessary for the purpose of selling any remaining inventory, Distributor shall remove from all of its facilities all signs, billboards and other similar items bearing any of the ZO SKIN HEALTH Marks or identifying Distributor as an authorized distributor of ZO SKIN HEALTH or the Products and Related Products and, within a reasonable period of time following such termination, withdraw or cancel any registrations or filings with governmental authorities relating to Distributor's use of any of the ZO SKIN HEALTH Marks. Except as required for Distributor's performance of obligations under this Section 8.3 and exercise of its right to sell any remaining inventory, upon expiration or earlier termination of this Agreement, Distributor shall immediately cease and desist from any further use of Proprietary Information of ZO SKIN HEALTH.

(r) Section 10.1. is hereby deleted in its entirety and replaced with the following:

"10.1. Limited Warranties. Distributor represents and warrants to ZO SKIN HEALTH that (a) Distributor has been duly incorporated and is validly existing and in good standing under the laws of its jurisdiction of incorporation; (b) Distributor (and its authorized signatory) has the necessary corporate power, authority and legal capacity to enter into and to observe and perform its covenants and obligations under this Agreement and has taken all necessary corporate action in respect thereof;
(c) Distributor has all required licensing, and is authorized, to sell pharmaceutical products in the Territory; (d) this Agreement has been duly executed and delivered by Distributor and constitutes Distributor's legal, enforceable and binding obligations; (e) Distributor's execution and performance of this Agreement will not conflict with the terms or conditions of any other agreement or contract to which Distributor is a party or is otherwise bound; (f) no approval, action or authorization by any governmental authority or agency is required for Distributor's execution and performance hereof (except for governmental certifications, registrations, licenses and approvals for the marketing, sale and distribution of the Products and Related Products in the Territory) which has not already been obtained; and (g) Distributor shall comply with all laws and regulations, including all governmental certifications, governmental regulations, licenses and approvals, with respect to the marketing, sale and distribution of the Products and Related Products."

(s) Section 14.1. is hereby deleted in its entirety and replaced with the following:

"14.1. Use of the ZO SKIN HEALTH Marks. ZO SKIN HEALTH hereby grants to Distributor, and Distributor hereby accepts from ZO SKIN HEALTH, a nonexclusive, nontransferable, royalty-free license to use the ZO SKIN HEALTH Marks set forth on Exhibit C hereto, solely in connection with the marketing, distribution, promotion, advertising and sale of the Products and Related Products in the Territory and in accordance with any ZO SKIN HEALTH standards and instructions, and for no other purpose. ZO SKIN HEALTH may inspect and monitor Distributor's use of the ZO SKIN HEALTH Marks. Distributor shall not adopt, use or register any words, phrases or symbols which are identical to or confusingly similar to any of the ZO SKIN HEALTH Marks or oppose any such registration by ZO SKIN HEALTH. Distributor is not granted any right, title or interest in the ZO SKIN HEALTH Marks other than the foregoing limited license, and Distributor shall not use the ZO SKIN HEALTH Marks as part of Distributor's business entity or trade name or permit any third party to do so. Distributor agrees to safeguard and maintain the reputation and prestige of the ZO Marks and will not do anything that would tarnish the image of or adversely impact the value, reputation or goodwill associated with the ZO SKIN HEALTH Marks. Distributor will never attempt to dilute, directly or indirectly, the value of the goodwill attached to the ZO SKIN HEALTH Marks nor to counsel, procure, or assist anyone else to do the same. If, in ZO SKIN HEALTH's reasonable determination, the use of a ZO SKIN

HEALTH Mark in connection with the Products will infringe or potentially infringe upon the rights of any third party or weakens or impairs ZO SKIN HEALTH's rights in the ZO SKIN HEALTH Marks, then upon notice from ZO SKIN HEALTH, Distributor will immediately terminate or modify such use in accordance with ZO SKIN HEALTH's instructions, and Distributor will have no rights of damages, offset, or right to terminate this Agreement as a result thereof. Distributor shall strictly comply with all intellectual property use guidelines and policies of ZO SKIN HEALTH provided to Distributor from time to time."

(t) Section 14.5. is hereby deleted in its entirety and replaced with the following:

"14.5. Distributor Web Sites. Notwithstanding anything herein to the contrary, Distributor shall not operate an Internet site that references any of the Products or Related Products or the ZO SKIN HEALTH Marks ("Distributor Web Site") without the prior written consent of ZO SKIN HEALTH, not to be unreasonably withheld. In consideration of ZO SKIN HEALTH allowing Distributor to reference the Products and Related Products or use the ZO SKIN HEALTH Marks in the Distributor Web Site, ZO SKIN HEALTH may provide, and Distributor shall post upon mutual agreement on the Distributor Web Site within the Territory, mandatory content, including but not limited to privacy policies, terms of use, copyright and trademark notices, and graphics and trademark policies. Subject to ZO SKIN HEALTH's prior written consent, Distributor shall prominently provide on the home page of the Distributor Web Site within the Territory a link to ZO SKIN HEALTH's Internet site in location, style, size and manner specified by ZO SKIN HEALTH. Notwithstanding anything in this Agreement to the contrary, Distributor shall not register, nor knowingly authorize any other person or entity to register, any domain name, digital media account or social media name, account name, nickname or similar that includes, in part or whole, any of the ZO SKIN HEALTH Marks or the name or description of any Products, without the prior written consent of ZO SKIN HEALTH, which may be refused in ZO SKIN HEALTH's sole discretion and, if granted, Distributor shall comply with all stipulations required by ZO SKIN HEALTH."

(u) Section 16.2. is hereby deleted in its entirety and replaced with the following:

"16.2. Assignment. Neither Party shall assign or otherwise transfer, including by operation of law, its rights or obligations under this Agreement without the prior written consent of the other Party, except that a Party may assign this Agreement and all of its rights and obligations hereunder without such prior written consent to the acquirer or successor in connection with a change of operating control of such Party or the sale of substantially all of the business assets of such Party, or the acquisition of a controlling interest in the stock of a Party by a third party (each, a "Change of Control"), provided, however, that if Distributor enters into a Change of Control transaction with a competitor of ZO SKIN HEALTH, Distributor shall be required to obtain the written consent of ZO SKIN HEALTH in connection therewith, or ZO SKIN HEALTH shall have the right in its sole discretion to terminate this Agreement at any time subsequent to such Change of Control.

(v) Exhibit F is hereby deleted in its entirety and replaced with Exhibit F attached to this Amendment.

3. Date of Effectiveness: Limited Effect. This Amendment will become effective as of the date first written above (the "**Amendment Effective Date**"**).** Except as expressly provided in this Amendment, all of the terms and provisions of the Existing Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the Parties. Without limiting the generality of the foregoing, the

amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Existing Agreement or as a waiver of or consent to any further or future action on the part of either Party that would require the waiver or consent of the other Party. On and after the Amendment Effective Date, each reference in the Existing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Existing Agreement in any other agreements, documents, or instruments executed and delivered pursuant to, or in connection with, the Existing Agreement, will mean and be a reference to the Existing Agreement as amended by this Amendment.

4. Miscellaneous.

(a) This Amendment is governed by and construed in accordance with, the laws of the State of California, without regard to the conflict of laws provisions of such State.

(b) This Amendment shall inure to the benefit of and be binding upon each of the Parties and each of their respective permitted successors and permitted assigns.

(c) The headings in this Amendment are for reference only and do not affect the interpretation of this Amendment.

(d) This Amendment may be executed in counterparts, each of which is deemed an original, but all of which constitute one and the same agreement. Delivery of an executed counterpart of this Amendment electronically or by facsimile shall be effective as delivery of an original executed counterpart of this Amendment.

(e) This Amendment constitutes the sole and entire agreement between the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

[REMAINDER OF THIS SECTION SHALL REMAIN BLANK!

IN WITNESS WHEREOF, the Parties have executed this Amendment on the date first written above.

ZO SKIN HEALTH, INC.

By: _____

Name: Mark Williams

Title: President & CEO

CUTERA, INC.

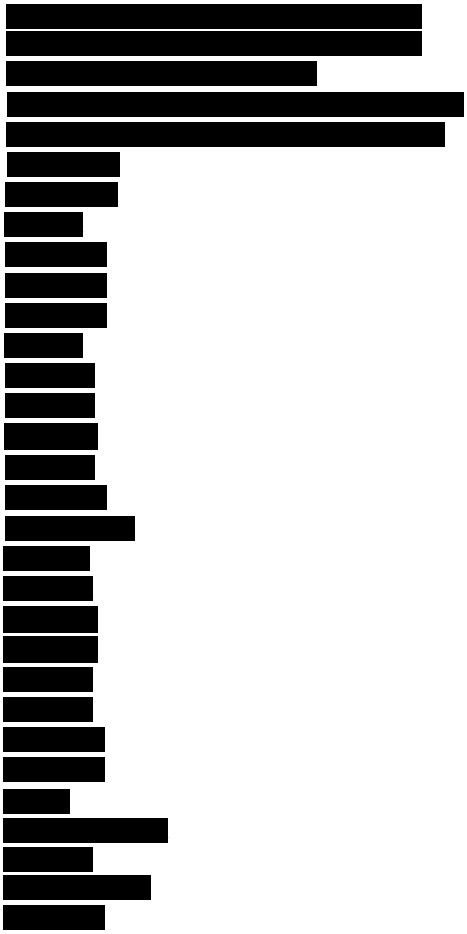
By: _____

Name: Dave H. Mowry

Title: CEO 6-14-21

EXHIBIT F

Competing Products



* This list is non-exhaustive and may be updated by ZO from time to time.

EXHIBIT 31.1

Certification of Chief Executive Officer
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, David H. Mowry, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cutera, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under its 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 its 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 its 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 first fiscal quarter in the case of an annual report) that has materially affected or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on its most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting

Date: August 6, 2021

/s/ David H. Mowry

David H. Mowry
Chief Executive Officer
(Principal Executive Officer)

EXHIBIT 31.2

Certification of Chief Financial Officer
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Rohan Seth, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cutera, Inc.:

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under its 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 annual report is being prepared;
   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under its 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 its 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 first 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

6. The registrant's other certifying officer and I have disclosed, based on its most recent evaluation of internal control over financial reporting, to the registrant's auditor and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (e) 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
   (f) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 6, 2021

/s/ Rohan Seth

Rohan Seth
Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 32.1

CERTIFICATIONS OF CHIEF EXECUTIVE OFFICER
AND CHIEF FINANCIAL OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, David H. Mowry, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that

i. the accompanying Quarterly Report on Form 10-Q of the Company for the quarterly period ended June 30, 2021 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
ii. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 6, 2021

/s/ David H. Mowry

David H. Mowry
Chief Executive Officer
(Principal Executive Officer)

I, Rohan Seth, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that

i. the accompanying Quarterly Report on Form 10-Q of the Company for the quarterly period ended June 30, 2021 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
ii. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 6, 2021

/s/ Rohan Seth

Rohan Seth
Chief Financial Officer
(Principal Financial and Accounting Officer)

This certification accompanies this Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not be deemed filed by the Company for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended.