

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

**FORM 10-Q**

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

For the quarterly period ended March 31, 2019

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number 0-19437

**TRANSENERIX, INC.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

11-2962080  
(I.R.S. Employer  
Identification No.)

635 Davis Drive, Suite 300, Morrisville, NC 27560  
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (919) 765-8400

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

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

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

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

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

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

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

| Title of each class                         | Trading symbol | Name of each exchange on which registered |
|---|----------------|---|
| Common Stock<br>\$0.001 par value per share | TRXC           | NYSE American                             |

The number of shares outstanding of the registrant's common stock, as of May 8, 2019 was 217,338,954.

TRANSENERIX, INC.

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## FORWARD-LOOKING STATEMENTS

In addition to historical financial information, this report contains “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, that concern matters that involve risks and uncertainties that could cause actual results to differ materially from those projected in the forward-looking statements. These forward-looking statements are intended to qualify for the safe harbor from liability established by the Private Securities Litigation Reform Act of 1995. All statements other than statements of historical fact contained in this report, including statements regarding future events, our future financial performance, our future business strategy and the plans and objectives of management for future operations, are forward-looking statements. We have attempted to identify forward-looking statements by terminology including “anticipates,” “believes,” “can,” “continue,” “could,” “estimates,” “expects,” “intends,” “in the event that,” “may,” “plans,” “potential,” “predicts,” “should” or “will” or the negative of these terms or other comparable terminology. Although we do not make forward-looking statements unless we believe we have a reasonable basis for doing so, we cannot guarantee their accuracy. Such forward-looking statements are subject to risks, uncertainties and other 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. Readers are urged to carefully review and consider the various disclosures made by us, which attempt to advise interested parties of the risks, uncertainties, and other factors that affect our business, operating results, financial condition and stock price, including without limitation the disclosures made under the captions “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” “Financial Statements,” “Notes to Consolidated Financial Statements” and “Risk Factors” in this report, as well as the disclosures made in the TransEnterix, Inc. Annual Report on Form 10-K for the year ended December 31, 2018 filed on February 27, 2019, or the Fiscal 2018 Form 10-K, and other filings we make with the Securities and Exchange Commission, or SEC. Furthermore, such forward-looking statements speak only as of the date of this report. We expressly disclaim any intent or obligation to update any forward-looking statements after the date hereof to conform such statements to actual results or to changes in our opinions or expectations except as required by applicable law. References in this report to “we,” “our,” “us,” or the “Company” refer to TransEnterix, Inc., including its subsidiaries, TransEnterix International; TransEnterix Italia S.r.l.; TransEnterix Europe S.à.R.L; TransEnterix Asia Pte. Ltd.; TransEnterix Taiwan Ltd; TransEnterix Japan KK and TransEnterix Israel Ltd.

Any disclosure in this report regarding the receipt of CE Mark or Section 510(k) clearance for any of the Company’s products does not mean or infer any endorsement of the Company’s products by any government agency including, without limitation, the U.S. Food and Drug Administration, or FDA.

**TransEnterix, Inc.**  
**Consolidated Statements of Operations and Comprehensive (Loss) Income**  
(in thousands except per share amounts)  
(Unaudited)

|  | March 31,          |                 |
|--|--------------------|-----------------|
|  | 2019               | 2018            |
| Revenue  | \$ 2,181           | \$ 4,767        |
| Cost of revenue  | 2,467              | 2,555           |
| Gross (loss) profit  | <u>(286)</u>       | <u>2,212</u>    |
| Operating Expenses (Income)                                    |                    |                 |
| Research and development                                       | 5,655              | 5,265           |
| Sales and marketing  | 7,674              | 5,970           |
| General and administrative                                     | 4,560              | 2,676           |
| Amortization of intangible assets                              | 2,611              | 2,827           |
| Change in fair value of contingent consideration               | 998                | 627             |
| Acquisition related costs                                      | 45                 | —               |
| Loss (gain) from sale of SurgiBot assets, net                  | 97                 | (11,996)        |
| Total Operating Expenses (Income)                              | <u>21,640</u>      | <u>5,369</u>    |
| Operating Loss   | <u>(21,926)</u>    | <u>(3,157)</u>  |
| Other (Expense) Income   |                    |                 |
| Change in fair value of warrant liabilities                    | (106)              | 1,829           |
| Interest income  | 318                | 270             |
| Interest expense   | (1,116)            | (656)           |
| Other expense  | (305)              | (58)            |
| Total Other (Expense) Income, net                              | <u>(1,209)</u>     | <u>1,385</u>    |
| Loss before income taxes                                       | \$ (23,135)        | \$ (1,772)      |
| Income tax benefit   | 610                | 890             |
| Net loss   | <u>\$ (22,525)</u> | <u>\$ (882)</u> |
| Comprehensive (loss) income                                    |                    |                 |
| Foreign currency translation (loss) gain                       | (1,949)            | 2,308           |
| Comprehensive (loss) income                                    | <u>\$ (24,474)</u> | <u>\$ 1,426</u> |
| Net loss per share - basic and diluted                         | <u>\$ (0.10)</u>   | <u>\$ 0.00</u>  |
| Weighted average common shares outstanding - basic and diluted | <u>216,796</u>     | <u>199,900</u>  |

*See accompanying notes to consolidated financial statements.*

**TransEnterix, Inc.**  
**Consolidated Balance Sheets**  
(in thousands, except share amounts)

|  | <u>March 31,</u><br><u>2019</u> | <u>December 31,</u><br><u>2018</u> |
|--|---------------------------------|------------------------------------|
|  | (unaudited)                     |                                    |
| <b>Assets</b>  |                                 |                                    |
| <b>Current Assets</b>  |                                 |                                    |
| Cash and cash equivalents  | \$ 25,545                       | \$ 21,061                          |
| Short-term investments   | 22,904                          | 51,790                             |
| Accounts receivable, net   | 8,531                           | 8,560                              |
| Inventories  | 15,197                          | 10,941                             |
| Interest receivable  | 34                              | 26                                 |
| Other current assets   | 10,211                          | 9,205                              |
| <b>Total Current Assets</b>  | <u>82,422</u>                   | <u>101,583</u>                     |
| Restricted cash  | 578                             | 590                                |
| Property and equipment, net  | 5,923                           | 6,337                              |
| Intellectual property, net   | 36,322                          | 39,716                             |
| In-process research and development  | 10,527                          | 10,747                             |
| Goodwill   | 79,509                          | 80,131                             |
| Other long term assets   | 1,695                           | 203                                |
| <b>Total Assets</b>  | <u>\$ 216,976</u>               | <u>\$ 239,307</u>                  |
| <b>Liabilities and Stockholders' Equity</b>  |                                 |                                    |
| <b>Current Liabilities</b>   |                                 |                                    |
| Accounts payable   | \$ 4,756                        | \$ 4,433                           |
| Accrued expenses   | 7,044                           | 9,619                              |
| Deferred revenue – current portion   | 1,618                           | 1,733                              |
| Contingent consideration – current portion   | 70                              | 72                                 |
| Deferred consideration - MST Acquisition   | 6,044                           | 5,962                              |
| <b>Total Current Liabilities</b>   | <u>19,532</u>                   | <u>21,819</u>                      |
| <b>Long Term Liabilities</b>   |                                 |                                    |
| Deferred revenue – less current portion  | —                               | 109                                |
| Contingent consideration – less current portion  | 11,565                          | 10,565                             |
| Notes payable – net of debt discount   | 29,267                          | 28,937                             |
| Warrant liabilities  | 4,742                           | 4,636                              |
| Net deferred tax liabilities   | 4,000                           | 4,720                              |
| Other long term liabilities  | 1,104                           | —                                  |
| <b>Total Liabilities</b>   | <u>70,210</u>                   | <u>70,786</u>                      |
| <b>Commitments and Contingencies (Note 17)</b>   |                                 |                                    |
| <b>Stockholders' Equity</b>  |                                 |                                    |
| Common stock \$0.001 par value, 750,000,000 shares authorized at<br>March 31, 2019 and December 31, 2018; 217,118,077 and 216,345,984 shares<br>issued and outstanding at March 31, 2019 and December 31, 2018, respectively | 217                             | 216                                |
| Additional paid-in capital   | 679,084                         | 676,373                            |
| Accumulated deficit  | (531,924)                       | (509,406)                          |
| Accumulated other comprehensive (loss) income  | (611)                           | 1,338                              |
| <b>Total Stockholders' Equity</b>  | <u>146,766</u>                  | <u>168,521</u>                     |
| <b>Total Liabilities and Stockholders' Equity</b>  | <u>\$ 216,976</u>               | <u>\$ 239,307</u>                  |

*See accompanying notes to consolidated financial statements.*

**TransEnterix, Inc.**  
**Consolidated Statements of Stockholders' Equity**  
(in thousands)  
(Unaudited)

|   | Common Stock |        | Treasury Stock |        | Additional<br>Paid-in<br>Capital | Accumulated<br>Deficit | Accumulated<br>Other<br>Comprehensive<br>Loss | Total<br>Stockholders'<br>Equity |
|---|--------------|--------|----------------|--------|----------------------------------|------------------------|---|----------------------------------|
|   | Shares       | Amount | Shares         | Amount |                                  |                        |   |                                  |
| <b>Balance, December 31, 2018</b>                                   | 216,346      | \$ 216 | —              | \$ —   | \$ 676,373                       | \$ (509,406)           | \$ 1,338                                      | \$ 168,521                       |
| Stock-based compensation  | —            | —      | —              | —      | 2,981                            | —                      | —   | 2,981                            |
| Exercise of stock options and warrants                              | 159          | —      | —              | —      | 236                              | —                      | —   | 236                              |
| Award of restricted stock units                                     | 613          | 1      | —              | —      | —                                | —                      | —   | 1                                |
| Return of common stock to pay withholding taxes on restricted stock | —            | —      | 194            | —      | (499)                            | —                      | —   | (499)                            |
| Cancellation of treasury stock                                      | —            | —      | (194)          | —      | —                                | —                      | —   | —                                |
| Cumulative effect of change in accounting principle (Note 2)        | —            | —      | —              | —      | (7)                              | 7                      | —   | —                                |
| Other comprehensive loss  | —            | —      | —              | —      | —                                | —                      | (1,949)                                       | (1,949)                          |
| Net loss  | —            | —      | —              | —      | —                                | (22,525)               | —   | (22,525)                         |
| <b>Balance, March 31, 2019</b>                                      | 217,118      | \$ 217 | —              | \$ —   | \$ 679,084                       | \$ (531,924)           | \$ (611)                                      | \$ 146,766                       |

  

|   | Common Stock |        | Treasury Stock |        | Additional<br>Paid-in<br>Capital | Accumulated<br>Deficit | Accumulated<br>Other<br>Comprehensive<br>Income | Total<br>Stockholders'<br>Equity |
|---|--------------|--------|----------------|--------|----------------------------------|------------------------|---|----------------------------------|
|   | Shares       | Amount | Shares         | Amount |                                  |                        |   |                                  |
| <b>Balance, December 31, 2017</b>                                   | 199,282      | \$ 199 | —              | \$ —   | \$ 621,261                       | \$ (447,640)           | \$ 5,028  | \$ 178,848                       |
| Stock-based compensation  | —            | —      | —              | —      | 1,834                            | —                      | —   | 1,834                            |
| Issuance of common stock and warrants, net of issuance costs        | —            | —      | —              | —      | 11                               | —                      | —   | 11                               |
| Exercise of stock options and warrants                              | 1,038        | 1      | —              | —      | 2,227                            | —                      | —   | 2,228                            |
| Award of restricted stock units                                     | 367          | —      | —              | —      | —                                | —                      | —   | —                                |
| Return of common stock to pay withholding taxes on restricted stock | —            | —      | 174            | —      | —                                | —                      | —   | —                                |
| Cancellation of treasury stock                                      | —            | —      | (174)          | —      | —                                | —                      | —   | —                                |
| Issuance of common stock related to sale of SurgiBot assets         | 1,286        | 1      | —              | —      | 2,999                            | —                      | —   | 3,000                            |
| Cumulative effect of change in accounting principle                 | —            | —      | —              | —      | —                                | 11                     | —   | 11                               |
| Other comprehensive income  | —            | —      | —              | —      | —                                | —                      | 2,308   | 2,308                            |
| Net loss  | —            | —      | —              | —      | —                                | (882)                  | —   | (882)                            |
| <b>Balance, March 31, 2018</b>                                      | 201,973      | \$ 201 | —              | \$ —   | \$ 628,332                       | \$ (448,511)           | \$ 7,336  | \$ 187,358                       |

*See accompanying notes to consolidated financial statements.*

**TransEnterix, Inc.**  
**Consolidated Statements of Cash Flows**  
**(in thousands)**  
**(Unaudited)**

|  | Three Months Ended |                  |
|--|--------------------|------------------|
|  | March 31,          |                  |
|  | 2019               | 2018             |
| <b>Operating Activities</b>  |                    |                  |
| Net loss   | \$ (22,525)        | \$ (882)         |
| Adjustments to reconcile net loss to net cash and cash equivalents used in operating activities: |                    |                  |
| Loss (gain) from sale of SurgiBot assets, net  | 97                 | (11,996)         |
| Depreciation   | 563                | 660              |
| Amortization of intangible assets  | 2,611              | 2,827            |
| Amortization of debt discount and debt issuance costs  | 330                | 274              |
| Amortization of short-term investment discount   | (220)              | —                |
| Interest expense on deferred consideration - MST acquisition                                     | 204                | —                |
| Stock-based compensation   | 2,981              | 1,834            |
| Deferred tax benefit   | (610)              | (890)            |
| Change in fair value of warrant liabilities  | 106                | (1,829)          |
| Change in fair value of contingent consideration   | 998                | 627              |
| Changes in operating assets and liabilities:   |                    |                  |
| Accounts receivable  | (129)              | (296)            |
| Interest receivable  | (8)                | (21)             |
| Inventories  | (4,621)            | (604)            |
| Other current and long term assets   | (2,655)            | 1,171            |
| Accounts payable   | 286                | (217)            |
| Accrued expenses   | (2,518)            | (2,871)          |
| Deferred revenue   | (197)              | (86)             |
| Other long term liabilities  | 1,112              | —                |
| Net cash and cash equivalents used in operating activities                                       | <u>(24,195)</u>    | <u>(12,299)</u>  |
| <b>Investing Activities</b>  |                    |                  |
| Purchase of short-term investments   | (10,894)           | —                |
| Proceeds from maturities of short-term investments   | 40,000             | —                |
| Proceeds related to sale of SurgiBot assets, net   | —                  | 4,496            |
| Purchase of property and equipment   | (118)              | (218)            |
| Proceeds from sale of property and equipment   | —                  | 17               |
| Net cash and cash equivalents provided by investing activities                                   | <u>28,988</u>      | <u>4,295</u>     |
| <b>Financing Activities</b>  |                    |                  |
| Proceeds from issuance of common stock and warrants, net of issuance costs                       | —                  | 11               |
| Taxes paid related to net share settlement of vesting of restricted stock units                  | (499)              | —                |
| Proceeds from issuance of common stock related to sale of SurgiBot assets                        | —                  | 3,000            |
| Proceeds from exercise of stock options and warrants   | 236                | 1,712            |
| Net cash and cash equivalents (used in) provided by financing activities                         | <u>(263)</u>       | <u>4,723</u>     |
| Effect of exchange rate changes on cash and cash equivalents                                     | (58)               | 88               |
| Net increase (decrease) in cash, cash equivalents and restricted cash                            | 4,472              | (3,193)          |
| Cash, cash equivalents and restricted cash, beginning of period                                  | 21,651             | 97,606           |
| Cash, cash equivalents and restricted cash, end of period  | <u>\$ 26,123</u>   | <u>\$ 94,413</u> |
| <b>Supplemental Disclosure for Cash Flow Information</b>   |                    |                  |
| Interest paid  | \$ 750             | \$ 304           |
| <b>Supplemental Schedule of Noncash Investing and Financing Activities</b>                       |                    |                  |
| Transfer of inventories to property and equipment  | \$ 86              | \$ 71            |
| Reclass of warrant liability to common stock and additional paid-in capital                      | \$ —               | \$ 516           |

*See accompanying notes to consolidated financial statements.*

## TransEnterix, Inc.

### Notes to Consolidated Financial Statements (Unaudited)

#### 1. Organization and Capitalization

TransEnterix, Inc. (the “Company”) is a medical device company that is digitizing the interface between the surgeon and the patient in laparoscopy to increase control and reduce surgical variability in today’s value-based healthcare environment. The Company is focused on the commercialization of the Senhance™ System, which digitizes laparoscopic minimally invasive surgery. The Senhance System allows for robotic precision, haptic feedback, surgeon camera control via eye sensing and improved ergonomics while offering responsible economics.

The Senhance System has a CE Mark in Europe for laparoscopic abdominal and pelvic surgery, as well as limited thoracic operations excluding cardiac and vascular surgery. On October 13, 2017, the Company received 510(k) clearance from the FDA for use of the Senhance System in laparoscopic colorectal and gynecologic surgery. These indications cover 23 procedures, including benign and oncologic procedures. In May 2018, the indications for use expanded when the Company received 510(k) clearance from the FDA for use of the Senhance System in laparoscopic inguinal hernia and laparoscopic cholecystectomy (gallbladder removal) surgery for a total of 28 indicated procedures. The Senhance System is available for sale in the United States, the European Union and select other countries.

The Senhance System is a multi-port robotic surgery system that allows multiple robotic arms to control instruments and a camera. The system features advanced technology to enable surgeons with haptic feedback and the ability to move the camera via eye movement.

On October 31, 2018, the Company acquired the assets, intellectual property and highly experienced multidisciplinary personnel of MST Medical Surgical Technologies, Inc., or MST, an Israeli-based medical technology company. Through this acquisition the Company acquired MST’s AutoLap™ technology, one of the only image-guided robotic scope positioning systems with FDA clearance and CE Mark. The Company believes MST’s image analytics technology will accelerate and drive meaningful Senhance System developments, and allow it to expand the Senhance System to add augmented, intelligent vision capability. See Note 3 for a description of the related transaction.

During 2018 and early 2019, the Company successfully obtained FDA clearance and a CE Mark for 3 millimeter diameter instruments and its Senhance ultrasonic system. The 3 millimeter instruments enable the Senhance System to be used for microlaparoscopic surgeries, allowing for tiny incisions. The ultrasonic system is an advanced energy device used to deliver controlled energy to ligate and divide tissue, while minimizing thermal injury to surrounding structures.

The Company has also developed the SurgiBot System, a single-port, robotically enhanced laparoscopic surgical platform. In December 2017, the Company entered into an agreement with Great Belief International Limited, or GBIL, to advance the SurgiBot System towards global commercialization. The agreement transferred ownership of the SurgiBot System assets, while the Company retained the option to distribute or co-distribute the SurgiBot System outside of China. GBIL intends to have the SurgiBot System manufactured in China and obtain Chinese regulatory clearance from the China Food and Drug Administration while entering into a nationwide distribution agreement with China National Scientific and Instruments and Materials Company for the Chinese market. The agreement provides the Company with proceeds of at least \$29.0 million, of which \$15.0 million has been received to date. The remaining \$14.0 million represents minimum royalties and will be paid beginning at the earlier of receipt of Chinese regulatory approval or March 2023.

On September 18, 2015, the Company entered into a Membership Interest Purchase Agreement, (the “Purchase Agreement”) with Sofar S.p.A., (“Sofar”) as seller, Vulcanos S.r.l. (“Vulcanos”), as the acquired company, and TransEnterix International, Inc. (“TransEnterix International”), a direct, wholly owned subsidiary of the Company which was incorporated in September 2015, as buyer. The closing of the transactions occurred on September 21, 2015 (the “Closing Date”) pursuant to which the Company acquired all of the membership interests of Vulcanos from Sofar (now known as the “Senhance Acquisition”), and changed the name of Vulcanos to TransEnterix Italia S.r.l (“TransEnterix Italia”). The Senhance Acquisition included all of the assets, employees and contracts related to the Senhance System. See Note 3 for a description of the related transactions.

On September 3, 2013, TransEnterix Surgical, Inc. a Delaware corporation (“TransEnterix Surgical”), and SafeStitch Medical, Inc., a Delaware corporation (“SafeStitch”) consummated a merger transaction whereby TransEnterix Surgical merged with a merger subsidiary of SafeStitch, with TransEnterix Surgical as the surviving entity in the merger (the “Merger”). As a result of the Merger, TransEnterix Surgical became a wholly owned subsidiary of SafeStitch. On December 6, 2013, SafeStitch changed its name to TransEnterix, Inc. and increased the authorized shares of common stock from 225,000,000 to 750,000,000, and authorized 25,000,000 shares of preferred stock, par value \$0.01 per share.



As used herein, the term “Company” refers to the combination of SafeStitch and TransEnterix Surgical after giving effect to the Merger, and includes TransEnterix International, Inc.; TransEnterix Italia S.r.l.; TransEnterix Europe S.à.R.L.; TransEnterix Asia Pte. Ltd.; TransEnterix Taiwan Ltd.; TransEnterix Japan KK and TransEnterix Israel Ltd.

## **2. Summary of Significant Accounting Policies**

### **Basis of Presentation**

The Company has prepared the accompanying unaudited interim condensed consolidated financial statements in accordance with the instructions to Form 10-Q and the standards of accounting measurement set forth in the Interim Reporting Topic of the Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”). Consequently, the Company has not necessarily included in this Form 10-Q all information and footnotes required for audited financial statements. In the opinion of the Company’s management, the accompanying unaudited condensed consolidated financial statements in this Form 10-Q contain all adjustments, consisting only of normal recurring adjustments, except as otherwise indicated, necessary for a fair statement of its financial position, results of operations, and cash flows of the Company for all periods presented. The results reported in these condensed consolidated financial statements should not be regarded as necessarily indicative of results that may be expected for any subsequent period or for the entire year. These unaudited condensed consolidated financial statements and notes thereto should be read in conjunction with the Company’s audited financial statements and the notes thereto included in the Fiscal 2018 Form 10-K. Certain information and footnote disclosures normally included in the annual financial statements prepared in accordance with generally accepted accounting principles in the U.S. (“U.S. GAAP”) have been condensed or omitted in the accompanying interim consolidated financial statements. The year-end condensed consolidated balance sheet data was derived from audited financial statements, but does not include all disclosures required by U.S. GAAP. The accompanying Consolidated Financial Statements include the accounts of the Company and its direct and indirect wholly owned subsidiaries, SafeStitch LLC, TransEnterix Surgical, Inc., TransEnterix International, Inc., TransEnterix Italia S.r.l., TransEnterix Europe S.à.R.L.; TransEnterix Asia Pte. Ltd.; TransEnterix Taiwan Ltd.; TransEnterix Japan KK and TransEnterix Israel Ltd. All inter-company accounts and transactions have been eliminated in consolidation.

Our financial statements have been presented on the basis that our business is a going concern, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. We are subject to risks and uncertainties like any business as we try to increase product placements, enhance product offerings, establish long-term license arrangements, create collaborations / strategic alliances and expand into new markets. We have incurred operating losses and negative operating cash flows since inception, and we expect to continue to incur operating losses and negative operating cash flows for at least the next few years. Management has made estimates of future results of operations, using a wide range of assumptions regarding the level of revenue generated, operating expense incurred and future cash flows, which suggest a wide range of possible future outcomes.

With the funds available at March 31, 2019, the Company believes current resources will be sufficient to fund its operations through the next twelve months. The Company believes it has the ability to access additional funding through equity offerings, debt financings / restructuring, and/or other third-party sources to continue as a going concern into the foreseeable future. No assurances can be given that we will ultimately be able to raise sufficient funds through other means to be able to continue operating our business at current levels beyond the next twelve months.

### **Use of Estimates**

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant items subject to such estimates and assumptions include identifiable intangible assets and goodwill, contingent consideration, warrant liabilities, stock compensation expense, revenue recognition, accounts receivable reserves, excess and obsolete inventory reserves, and deferred tax asset valuation allowances.

### **Cash and Cash Equivalents and Restricted Cash**

The Company considers all highly liquid investments with original maturities of 90 days or less at the time of purchase to be cash equivalents.

Restricted cash at March 31, 2019 includes \$0.6 million in cash accounts held as collateral primarily under the terms of an office operating lease, credit cards and automobile leases. Restricted cash at December 31, 2018 includes \$0.6 million in cash accounts held as collateral primarily under the terms of an office operating lease, credit cards and automobile leases.

### **Short-term Investments**

Short-term investments are considered to be “held-to-maturity” and are carried at amortized cost using the effective interest method. As of March 31, 2019 and December 31, 2018, short-term investments consisted of \$22.9 million and \$51.8 million, respectively, in U.S. government securities, all of which mature in less than a year.

The Company reassesses the appropriateness of the classification of its investments at the end of each reporting period. The Company has determined that its debt securities should be classified as held-to-maturity as of March 31, 2019 and December 31, 2018. This classification was based upon management’s determination that it has the positive intent and ability to hold the securities until their maturity dates, as the investments mature within 6 months and the underlying cash invested in these securities is not required prior to the investments maturity. Due to the short-term maturities of these instruments, the amortized cost approximates the related fair values, which are based on level 1 inputs as defined in Note 5. As of March 31, 2019 and December 31, 2018, the gross holding gains and losses were immaterial.

The Company reviews its short-term investments for other-than-temporary impairment if the cost exceeds the fair value. No such impairment was recorded as of March 31, 2019 and December 31, 2018.

### **Concentrations and Credit Risk**

The Company’s principal financial instruments subject to potential concentration of credit risk are cash and cash equivalents, including amounts held in money market accounts and short-term investments. The Company places cash deposits with a federally insured financial institution. The Company maintains its cash at banks and financial institutions it considers to be of high credit quality; however, the Company’s cash deposits may at times exceed the Federal Deposit Insurance Corporation’s insured limit. Balances in excess of federally insured limitations may not be insured. The Company’s short-term investments consist of U.S. government securities. The Company has not experienced losses on these accounts, and management believes that the Company is not exposed to significant risks on such accounts.

The Company’s accounts receivable are derived from net revenue to customers located throughout the world. The Company evaluates its customers’ financial condition and, generally, requires no collateral from its customers. The Company provides reserves for potential credit losses but has not experienced significant losses to date. The Company had five customers who constituted 90% of the Company’s net accounts receivable at March 31, 2019. The Company had five customers who constituted 89% of the Company’s net accounts receivable at December 31, 2018. The Company had five customers who accounted for 81% of sales for the three months ended March 31, 2019 and two customers who accounted for 91% of sales for the three months ended March 31, 2018.

### **Accounts Receivable**

Accounts receivable are recorded at net realizable value, which includes an allowance for estimated uncollectable accounts. The allowance for uncollectible accounts was determined based on historical collection experience.

### **Inventories**

Inventories are stated at the lower of cost (determined on a first-in, first-out basis) or net realizable value. Inventory costs include direct materials, direct labor, and normal manufacturing overhead. The Company records reserves, when necessary, to reduce the carrying value of inventory to its net realizable value. Management considers forecast demand in relation to the inventory on hand, competitiveness of product offerings, market conditions and product life cycles when determining excess and obsolescence and net realizable value adjustments. At the point of loss recognition, a new, lower-cost basis for that inventory is established, and any subsequent improvements in facts and circumstances do not result in the restoration or increase in that newly established cost basis.

### **Identifiable Intangible Assets and Goodwill**

Identifiable intangible assets are recorded at cost, or when acquired as part of a business acquisition, at estimated fair value. Certain intangible assets are amortized over 5 to 10 years. Similar to tangible personal property and equipment, the Company periodically evaluates identifiable intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable.

Intellectual property consists of purchased patent rights and developed technology acquired as part of a business acquisition. Amortization of the patent rights is recorded using the straight-line method over the estimated useful life of the patents of 10 years. Amortization of the developed technology is recorded using the straight-line method over the estimated useful life of 5 to 7 years. This

method approximates the period over which the Company expects to receive the benefit from these assets. No impairment existed at March 31, 2019 or December 31, 2018.

Indefinite-lived intangible assets, such as goodwill, are not amortized. The Company tests the carrying amounts of goodwill for recoverability on an annual basis at December 31 or when events or changes in circumstances indicate evidence that a potential impairment exists, using a fair value based test. The Company continues to operate in one segment, which is considered to be the sole reporting unit and therefore, goodwill is tested for impairment at the enterprise level. No impairment existed at March 31, 2019 or December 31, 2018.

#### **In-Process Research and Development**

In-process research and development (“IPR&D”) assets represent the fair value assigned to technologies that were acquired, which at the time of acquisition have not reached technological feasibility and have no alternative future use. IPR&D assets are considered to be indefinite-lived until the completion or abandonment of the associated research and development projects. During the period that the IPR&D assets are considered indefinite-lived, they are tested for impairment on an annual basis, or more frequently if the Company becomes aware of any events occurring or changes in circumstances that indicate that the fair value of the IPR&D assets are less than their carrying amounts. If and when development is complete, which generally occurs upon regulatory approval, and the Company is able to commercialize products associated with the IPR&D assets, these assets are then deemed definite-lived and are amortized based on their estimated useful lives at that point in time. If development is terminated or abandoned, the Company may have a full or partial impairment charge related to the IPR&D assets, calculated as the excess of carrying value of the IPR&D assets over fair value.

The IPR&D for the Senhance System was acquired on September 21, 2015. On October 13, 2017, upon regulatory approval and the ability to commercialize the products associated with the IPR&D assets, the assets were deemed definite-lived, reclassified to intellectual property and are now amortized based on their estimated useful lives.

The IPR&D from MST was acquired on October 31, 2018.

#### **Property and Equipment**

Property and equipment consists primarily of machinery, manufacturing equipment, demonstration equipment, computer equipment, furniture, and leasehold improvements, which are recorded at cost.

Depreciation is recorded using the straight-line method over the estimated useful lives of the assets as follows:

|  |                                       |
|--|---------------------------------------|
| Machinery, manufacturing and demonstration equipment | 3-5 years                             |
| Computer equipment                                   | 3 years                               |
| Furniture  | 5 years                               |
| Leasehold improvements                               | Lesser of lease term or 3 to 10 years |

Upon retirement or sale, the cost of assets disposed of and the related accumulated depreciation and amortization are removed from the accounts and any resulting gain or loss is credited or charged to operations. Repairs and maintenance costs are expensed as incurred.

#### **Impairment of Long-Lived Assets**

The Company reviews its long-lived assets for possible impairment whenever events or changes in circumstances indicate that the carrying amount of the assets may not be fully recoverable. To determine the recoverability of its long-lived assets, the Company evaluates the probability that future estimated undiscounted net cash flows will be less than the carrying amount of the assets. If such estimated cash flows are less than the carrying amount of the long-lived assets, then such assets are written down to their fair value. The Company’s estimates of anticipated cash flows and the remaining estimated useful lives of long-lived assets could be reduced in the future, resulting in a reduction to the carrying amount of long-lived assets.

### **Contingent Consideration**

Contingent consideration is recorded as a liability and is the estimate of the fair value of potential milestone payments related to business acquisitions. Contingent consideration is measured at fair value using a discounted cash flow model utilizing significant unobservable inputs including the probability of achieving each of the potential milestones and an estimated discount rate associated with the risks of the expected cash flows attributable to the various milestones. Significant increases or decreases in any of the probabilities of success or changes in expected timelines for achievement of any of these milestones would result in a significantly higher or lower fair value of these milestones, respectively, and commensurate changes to the associated liability. The contingent consideration is revalued at each reporting period and changes in fair value are recognized in the consolidated statements of operations and comprehensive (loss) income.

### **Warrant Liabilities**

The Company's Series B Warrants (see Note 14) are measured at fair value using a simulation model which takes into account, as of the valuation date, factors including the current exercise price, the expected life of the warrant, the current price of the underlying stock, its expected volatility, holding cost and the risk-free interest rate for the term of the warrant (see Note 5). The warrant liability is revalued at each reporting period and changes in fair value are recognized in the consolidated statements of operations and comprehensive (loss) income. The selection of the appropriate valuation model and the inputs and assumptions that are required to determine the valuation requires significant judgment and requires management to make estimates and assumptions that affect the reported amount of the related liability and reported amounts of the change in fair value. Actual results could differ from those estimates, and changes in these estimates are recorded when known. As the warrant liability is required to be measured at fair value at each reporting date, it is reasonably possible that these estimates and assumptions could change in the near term.

### **Translation of Foreign Currencies**

The functional currency of the Company's operational foreign subsidiaries is Euros. The assets and liabilities of the Company's foreign subsidiaries are translated into U.S. dollars at exchange rates in effect at the balance sheet date. Income and expense items are translated at the average exchange rates prevailing during the period. The cumulative translation effect for a subsidiary using a functional currency other than the U.S. dollar is included in accumulated other comprehensive income or loss as a separate component of stockholders' equity.

The Company's intercompany accounts are denominated in the functional currency of the foreign subsidiary. Gains and losses resulting from the remeasurement of intercompany receivables that the Company considers to be of a long-term investment nature are recorded as a cumulative translation adjustment in accumulated other comprehensive income or loss as a separate component of stockholders' equity, while gains and losses resulting from the remeasurement of intercompany receivables from a foreign subsidiary for which the Company anticipates settlement in the foreseeable future are recorded in the consolidated statements of operations and comprehensive (loss) income. The net gains and losses included in net loss in the consolidated statements of operations and comprehensive (loss) income for the three months ended March 31, 2019 and 2018 were not significant.

### **Business Acquisitions**

Business acquisitions are accounted for using the acquisition method of accounting in accordance with Accounting Standards Codification ("ASC") 805, "Business Combinations." ASC 805 requires, among other things, that assets acquired and liabilities assumed be recognized at their fair values, as determined in accordance with ASC 820, "Fair Value Measurements," as of the acquisition date. For certain assets and liabilities, book value approximates fair value. In addition, ASC 805 establishes that consideration transferred be measured at the closing date of the acquisition at the then-current market price. Under ASC 805, acquisition-related costs (i.e., advisory, legal, valuation and other professional fees) and certain acquisition-related restructuring charges impacting the target company are expensed in the period in which the costs are incurred. The application of the acquisition method of accounting requires the Company to make estimates and assumptions related to the estimated fair values of net assets acquired.

Significant judgments are used during this process, particularly with respect to intangible assets. Generally, intangible assets are amortized over their estimated useful lives. Goodwill and other indefinite-lived intangibles are not amortized, but are annually assessed for impairment. Therefore, the purchase price allocation to intangible assets and goodwill has a significant impact on future operating results.

## Risk and Uncertainties

The Company is subject to a number of risks similar to other similarly-sized companies in the medical device industry. These risks include, without limitation, the historical lack of profitability; the Company's ability to raise additional capital; its ability to successfully develop, clinically test and commercialize its products; the timing and outcome of the regulatory review process for its products; changes in the health care and regulatory environments of the United States, Italy, other countries in the European Union, and other countries in which the Company intends to operate; its ability to attract and retain key management, marketing and scientific personnel; competition from new entrants; its ability to successfully prepare, file, prosecute, maintain, defend and enforce patent claims and other intellectual property rights; its ability to successfully transition from a research and development company to a marketing, sales and distribution concern; competition in the market for robotic surgical devices; and its ability to identify and pursue development of additional products.

## Revenue Recognition

The Company adopted ASC Topic 606, *Revenue from Contracts with Customers* (the "New Revenue Standard"), on January 1, 2018. The Company's revenue consists of product revenue resulting from the sale of systems, system components, instruments and accessories, and service revenue. The Company accounts for a contract with a customer when there is a legally enforceable contract between the Company and the customer, the rights of the parties are identified, the contract has commercial substance, and collectability of the contract consideration is probable. The Company's revenues are measured based on consideration specified in the contract with each customer, net of any sales incentives and taxes collected from customers that are remitted to government authorities.

The Company's system sale arrangements generally 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, which is if a product or service is separately identifiable from other items in the bundled package, and if a customer can benefit from it on its own or with other resources that are readily available to the customer. The Company's system sale arrangements include a combination of the following performance obligations: system(s), system components, instruments, accessories, and system service. The Company's system sale arrangements generally include a five-year period of service. The first year of service is generally free and included in the system sale arrangement and the remaining four years are generally included at a stated service price. The Company considers the service terms in the arrangements that are legally enforceable to be performance obligations. Other than service, the Company generally satisfies all of the performance obligations up-front. System components, system accessories, instruments, accessories, and service are also sold on a standalone basis.

The Company recognizes revenues as the performance obligations are satisfied by transferring control of the product or service to a customer. The Company generally recognizes revenue for the performance obligations as follows:

- System sales. For systems and system components sold directly to end customers, revenue is recognized when the Company transfers control to the customer, which is generally at the point when acceptance occurs that indicates customer acknowledgment of delivery or installation, depending on the terms of the arrangement. For systems sold through distributors, for which distributors are responsible for installation, revenue is recognized generally at the time of shipment. The Company's system arrangements generally do not provide a right of return. The systems are generally covered by a one-year warranty. Warranty costs were not material for the periods presented.
- Instruments and accessories. Revenue from sales of instruments and accessories is recognized when control is transferred to the customers, which generally occurs at the time of shipment, but also occurs at the time of delivery depending on the customer arrangement. Accessory products include sterile drapes used to help ensure a sterile field during surgery, vision products such as replacement endoscopes, camera heads, light guides, and other items that facilitate use of the Senhance System.
- Service. Service revenue is recognized ratably over the term of the service period as the customers benefit from the service throughout the service period. Revenue related to services performed on a time-and-materials basis is recognized when performed.

For multiple-element arrangements, revenue is allocated to each performance obligation based on its relative standalone selling price. Standalone selling prices are based on observable prices at which the Company separately sells the products or services. Due to limited sales to date, standalone selling prices are not directly observable. The Company estimates the standalone selling price using the market assessment approach considering market conditions and entity-specific factors including, but not limited to, features and functionality of the products and services, geographies, type of customer, and market conditions. The Company regularly reviews standalone selling prices and updates these estimates if necessary.

The following table presents revenue disaggregated by type and geography:

|                                | <b>Three Months Ended</b> |                 |
|--------------------------------|---------------------------|-----------------|
|                                | <b>March 31,</b>          |                 |
|                                | <b>2019</b>               | <b>2018</b>     |
|                                | (in thousands)            |                 |
|                                | (unaudited)               |                 |
| <b>U.S.</b>                    |                           |                 |
| Services                       | \$ 133                    | \$ 21           |
| <b>Total U.S. revenue</b>      | <b>133</b>                | <b>21</b>       |
| <b>Outside of U.S. ("OUS")</b> |                           |                 |
| Systems                        | 1,287                     | 3,454           |
| Instruments and accessories    | 546                       | 1,111           |
| Services                       | 215                       | 181             |
| <b>Total OUS revenue</b>       | <b>2,048</b>              | <b>4,746</b>    |
| <b>Total</b>                   |                           |                 |
| Systems                        | 1,287                     | 3,454           |
| Instruments and accessories    | 546                       | 1,111           |
| Services                       | 348                       | 202             |
| <b>Total revenue</b>           | <b>\$ 2,181</b>           | <b>\$ 4,767</b> |

The Company recognizes sales by geographic area based on the country in which the customer is based.

Transaction price allocated to remaining performance obligations relates to amounts allocated to products and services for which the revenue has not yet been recognized. A significant portion of this amount relates to service obligations performed under the Company's system sales contracts that will be invoiced and recognized as revenue in future periods. Transaction price allocated to remaining performance obligations was approximately \$3.8 million as of March 31, 2019.

The Company invoices its customers based on the billing schedules in its sales arrangements. Contract assets for the periods presented primarily represent the difference between the revenue that was recognized based on the relative selling price of the related performance obligations and the contractual billing terms in the arrangements. Contract assets are included in accounts receivable and totaled \$0.2 million and \$0.1 million as of March 31, 2019 and 2018, respectively. Deferred revenue for the periods presented was primarily related to service obligations, for which the service fees are billed up-front, generally annually. The associated deferred revenue is generally recognized ratably over the service period. The Company did not have any significant impairment losses on its contract assets for the periods presented. Revenue recognized for the three months ended March 31, 2019 and 2018, that was included in the deferred revenue balance at the beginning of each reporting period was \$0.3 million and \$0.1 million, respectively.

In connection with assets recognized from the costs to obtain a contract with a customer, the Company determined that the sales incentive programs for its sales team do not meet the requirements to be capitalized as the Company does not expect to generate future economic benefits from the related revenue from the initial sales transaction.

#### **Cost of Revenue**

Cost of revenue consists of contract manufacturing, materials, labor and manufacturing overhead incurred internally to produce the products. Shipping and handling costs incurred by the Company are included in cost of revenue.

#### **Research and Development Costs**

Research and development expenses primarily consist of engineering, product development and regulatory expenses, incurred in the design, development, testing and enhancement of our products. Research and development costs are expensed as incurred.

#### **Stock-Based Compensation**

The Company follows ASC 718 "Stock Compensation", which provides guidance in accounting for share-based awards exchanged for services rendered and requires companies to expense the estimated fair value of these awards over the requisite service period. The Company recognizes compensation expense for stock-based awards based on estimated fair values on the date of grant for awards. The Company uses the Black-Scholes-Merton option pricing model to determine the fair value of stock options. The fair value of restricted stock units is determined by the market price of the Company's common stock on the date of grant. The expense associated with stock-based compensation is recognized on a straight-line basis over the requisite service period of each award.

The Company records as expense the fair value of stock-based compensation awards, including stock options and restricted stock units. Compensation expense for stock-based compensation was approximately \$3.0 million and \$1.8 million for the three months ended March 31, 2019 and 2018, respectively.

### **Income Taxes**

The Company accounts for income taxes using the asset and liability method, which requires the recognition of deferred tax assets or liabilities for the temporary differences between financial reporting and tax basis of the Company's assets and liabilities, and for tax carryforwards at enacted statutory rates in effect for the years in which the asset or liability is expected to be realized. The effect on deferred taxes of a change in tax rates is recognized in income during the period that includes the enactment date. In addition, valuation allowances are established when necessary to reduce deferred tax assets and liabilities to the amounts expected to be realized.

On December 22, 2017, the Tax Cuts and Jobs Act ("Tax Legislation") was enacted into law, which reduced the U.S. federal corporate income tax rate to 21% for tax years beginning after December 31, 2017. As a result of the newly enacted tax rate, the Company adjusted its U.S. deferred tax assets as of December 31, 2017, by applying the new 21% rate, which resulted in a decrease to the deferred tax assets and a corresponding decrease to the valuation allowance of approximately \$36.1 million.

The Tax Legislation also implements a territorial tax system. Under the territorial tax system, in general, the Company's foreign earnings will no longer be subject to tax in the U.S. As part of transition to the territorial tax system the Tax Legislation includes a mandatory deemed repatriation of all undistributed foreign earnings that are subject to a U.S. income tax. The Company has determined that the deemed repatriation applicable to the year ending December 31, 2017 does not result in an additional U.S. income tax liability as it has no undistributed foreign earnings.

The FASB Staff Q&A, Topic 740, No. 5, Accounting for Global Intangible Low-Taxed Income ("GILTI"), states that an entity can make an accounting policy election to either recognize deferred taxes for temporary basis differences expected to reverse as GILTI in future years or to provide for the tax expense related to GILTI in the year the tax is incurred as a period expense only. The Company has elected to account for GILTI as a period expense in the year the tax is incurred.

### **Comprehensive (Loss) Income**

Comprehensive (loss) income is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources.

### **Segments**

The Company operates in one business segment—the research, development and sale of medical device robotics to improve minimally invasive surgery. The Company's chief operating decision maker (determined to be the Chief Executive Officer) does not manage any part of the Company separately, and the allocation of resources and assessment of performance are based on the Company's consolidated operating results. Approximately 47% and 54% of the Company's total consolidated assets are located within the U.S. as of March 31, 2019 and December 31, 2018, respectively. The remaining assets are mostly located in Europe and are primarily related to the Company's facility in Italy, and include goodwill, intellectual property, in-process research and development, other current assets, property and equipment, cash, accounts receivable and inventory of \$115.5 million and \$111.0 million at March 31, 2019 and December 31, 2018, respectively. Total assets outside of the U.S. excluding goodwill amounted to 40% and 34% of total consolidated assets at March 31, 2019 and December 31, 2018, respectively. The Company recognizes sales by geographic area based on the country in which the customer is based. For the three months ended March 31, 2019 and 2018, 6% and 0%, respectively, of net revenue were generated in the United States; 35% and 100% were generated in Europe; and 59% and 0% were generated in Asia.

### **Impact of Recently Issued Accounting Standards**

In August 2018, the FASB issued ASU 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement*. This ASU eliminates, adds and modifies certain disclosure requirements for fair value measurements as part of its disclosure framework project. The standard is effective for all entities for financial statements issued for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. Early adoption is permitted. The Company is currently assessing this ASU and has not yet determined the impact ASU 2018-13 may have on its consolidated financial statements.

In June 2018, the FASB issued ASU 2018-07, *Compensation-Stock Compensation (Topic 718), Improvements to Nonemployee Share-based Payments*. This ASU expands the scope of Topic 718 to include share-based payment transactions for acquiring goods and

services from nonemployees. The Company adopted ASU 2018-07 on January 1, 2019, whereby the accounting for share-based payments for nonemployees and employees will be substantially the same. With the adoption of ASU 2018-07, the Company recorded a charge to accumulated deficit of \$7,000.

In July 2017, the FASB issued ASU 2017-11, *Earnings Per Share (Topic 260); Distinguishing Liabilities from Equity (Topic 480); Derivatives and Hedging (Topic 815): (Part I) Accounting for Certain Financial Instruments with Down Round Features, (Part II) Replacement of the Indefinite Deferral for Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests with a Scope Exception*. The amendments in this update are intended to simplify the accounting for certain equity-linked financial instruments and embedded features with down round features that result in the strike price being reduced on the basis of the pricing of future equity offerings. Under the new guidance, a down round feature will no longer need to be considered when determining whether certain financial instruments or embedded features should be classified as liabilities or equity instruments. That is, a down round feature will no longer preclude equity classification when assessing whether an instrument or embedded feature is indexed to an entity's own stock. In addition, the amendments clarify existing disclosure requirements for equity-classified instruments. These amendments are effective for fiscal years, and interim periods within those years, beginning after December 15, 2018, with early adoption permitted. The adoption of this ASU did not have a material impact on the consolidated financial statements.

In February 2016, the FASB issued ASU 2016-02, *Leases (Topic 842)*, which establishes a right-of-use (ROU) model that requires a lessee to record a ROU asset and a lease liability on the balance sheet for most leases. In July 2018, the FASB issued ASU 2018-11, *Leases (Topic 842), Targeted Improvements*, which amends the guidance to add a method of adoption whereby the issuer may elect to recognize a cumulative effect adjustment at the beginning of the period of adoption. ASU 2018-11 *Leases (Topic 842), Targeted Improvements*, does not require comparative period financial information to be adjusted. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the income statement.

ASU 2016-02 defines a lease as a contract, or part of a contract, that conveys the right to control the use of identified property, plant or equipment for a period of time in exchange for consideration. To determine whether a contract conveys the right to control the use of the identified asset for a period of time, the customer has to have both (1) the right to obtain substantially all of the economic benefits from the use of the identified asset and (2) the right to direct the use of the identified asset, a contract does not contain an identified asset if the supplier has a substantive right to substitute such asset ("the leasing criteria"). As part of the adoption of ASC 842, the Company performed an assessment of the impact the new lease recognition standard will have on its consolidated financial statements. The Company's leases relate to office equipment, company owned vehicles and corporate offices, all of which are classified as operating leases and include fixed payments. The Company does not have any material leases, individually or in the aggregate, classified as a finance leasing arrangement under the new lease recognition standard.

On January 1, 2019, the Company adopted ASU No. 2016-02, applying the package of practical expedients to leases that commenced before the effective date whereby the Company elected to not reassess the following: (i) whether any expired or existing contracts contain leases; (ii) the lease classification for any expired or existing leases; and (iii) initial direct costs for any existing leases. The Company also elected, for all classes of underlying assets, to not separate nonlease components from lease components and instead to account for them as a single component. The Company elected to apply the transition provisions as of January 1, 2019, the date of adoption, using the effective date approach, and recorded lease ROU assets and related liabilities on its balance sheet without restating prior periods. Many of the Company's leases include base rental periods coupled with options to renew or terminate the lease, generally at the Company's discretion. In evaluating the lease term, the Company considers whether renewal is reasonably certain. To the extent a significant economic incentive exists to renew the lease, the option is included within the lease term. Based on the Company's leases, renewal options generally do not provide a significant economic incentive and are therefore excluded from the lease term. The ROU asset is included in other long term assets on the consolidated balance sheets. The current portion of operating lease liabilities are presented within accrued liabilities while the non-current portion of operating lease liabilities are presented within other long term liabilities on the consolidated balance sheets and represents the present value of the remaining lease payments, discounted using the Company's incremental borrowing rate, which ranges between 7.0% and 8.5% based on the terms of the lease. The weighted average discount rate as of March 31, 2019 was 8%. There was no change to the Company's consolidated statements of operations and comprehensive (loss) income or cash flows.

The details of this adjustment are summarized below.



|   | Balance at<br>December 31, 2018 | Adjustments Due<br>to ASC 842<br>(unaudited)<br>(In thousands) | Balance at<br>January 1, 2019 |
|---|---------------------------------|--|-------------------------------|
| <b>Assets</b>                               |                                 |  |                               |
| Other long term assets                      | \$ -                            | \$ 1,751   | \$ 1,751                      |
| <b>Liabilities and Stockholders' Equity</b> |                                 |  |                               |
| Accrued expenses                            | \$ -                            | \$ 507   | \$ 507                        |
| Other long term liabilities                 | \$ -                            | \$ 1,244   | \$ 1,244                      |

As of March 31, 2019, the right-of-use asset totaled \$1.5 million and is included within other long term assets on the consolidated balance sheet and the lease liability totaled \$1.8 million, of which \$0.7 million is classified as current within accrued expenses and \$1.1 million is classified as noncurrent within other long term liabilities on the consolidated balance sheet. Operating lease cost for the three months ended March 31, 2019 totaled \$0.3 million and is included within operating expenses in the consolidated statement of operations and comprehensive loss. The weighted average remaining lease term for operating leases as of March 31, 2019 was 2.52 years. Total cash paid for operating leases during the three-month period ended March 31, 2019 was \$0.4 million and is included within cash flows from operating activities within the consolidated statement of cash flows.

The following table presents the minimum lease payments as of March 31, 2019 (in thousands):

|  |    |       |
|--|----|-------|
| April 1, 2019 to March 31, 2020                      | \$ | 959   |
| April 1, 2020 to March 31, 2021                      |    | 518   |
| April 1, 2021 to March 31, 2022                      |    | 441   |
| April 1, 2022 to March 31, 2023                      |    | 119   |
| April 1, 2023 to March 31, 2024                      |    | 18    |
| Total minimum lease payments                         |    | 2,055 |
| Less: Amount of lease payments representing interest |    | (218) |
| Present value of future minimum lease payments       | \$ | 1,837 |

### 3. Acquisitions

#### *MST Medical Surgery Technologies Ltd. Acquisition*

On September 23, 2018, the Company entered into an Asset Purchase Agreement (the "MST Purchase Agreement") with MST Medical Surgery Technologies Ltd., an Israeli private company (the "Seller"), and two of the Company's wholly owned subsidiaries, as purchasers of the assets of the Seller, including the intellectual property assets (collectively, the "Buyers"). The closing of the transactions occurred on October 31, 2018, pursuant to which the Company acquired the Seller's assets consisting of intellectual property and tangible assets related to surgical analytics with its core image analytics technology designed to empower and automate the surgical environment, with a focus on medical robotics and computer-assisted surgery. The core technology acquired under the MST Purchase Agreement is a software-based image analytics information platform powered by advanced visualization, scene recognition, artificial intelligence, machine learning and data analytics.

Under the terms of the MST Purchase Agreement, at the closing the Buyers purchased substantially all of the assets of the Seller. The acquisition price consisted of two tranches. At or prior to the closing of the transaction the Buyers paid \$5.8 million in cash and the Company issued 3.15 million shares of the Company's common stock. A second tranche of \$6.6 million in additional consideration will be payable in cash, stock or cash and stock, at the discretion of the Company, within one year after the closing date.

The MST Purchase Agreement contains customary representations and warranties of the parties and the parties have customary indemnification obligations, which are subject to certain limitations described further in the MST Purchase Agreement.

In connection with the closing under the MST Purchase Agreement (the “MST Acquisition”), the Company and the Seller entered into a Lock-Up Agreement, dated October 31, 2018, pursuant to which the Seller agreed, subject to certain exceptions, not to sell, transfer or otherwise convey any of the shares of Company common stock (the “Securities Consideration”) for six months following the Closing Date. The Lock-Up Agreement further provides that the Seller may sell, transfer or convey: (i) no more than 50% of the Securities Consideration during the period commencing on the six-month anniversary of the Closing Date and ending on the twelve-month anniversary of the Closing Date; and (ii) no more than 75% of the Securities Consideration during the period commencing on the twelve-month anniversary of the Closing Date and ending on the eighteen-month anniversary of the Closing Date. The restrictions on transfer contained in the Lock-Up Agreement cease to apply to the Securities Consideration following the eighteen-month anniversary of the closing date of the MST Acquisition, or earlier upon certain other conditions. The Lock-Up Agreement further provides that the Seller may not sell, transfer or convey the additional consideration, if such additional consideration is paid in whole or in part through the issuance of shares of the Company’s common stock, until after the six-month anniversary of the issuance of the Company’s common stock as additional consideration, or earlier upon certain other conditions.

In connection with the MST Acquisition closing, the Company also entered into a Registration Rights Agreement, dated as of October 31, 2018, with the Seller, pursuant to which the Company agreed to register the Securities Consideration such that such Securities Consideration is eligible for resale following the end of the lock-up periods described above.

The MST Purchase Agreement was accounted for as a business combination utilizing the methodology prescribed in ASC 805. The purchase price for the acquisition was allocated to the assets acquired and liabilities assumed based on their estimated fair values.

The following table summarizes the acquisition date fair value of the consideration (in thousands).

|   |           |                      |
|---|-----------|----------------------|
| Stock consideration                     | \$        | 8,300                |
| Cash consideration                      |           | 5,800                |
| Present value of deferred consideration |           | 5,900                |
| Other consideration                     |           | 314                  |
| <b>Total consideration</b>              | <b>\$</b> | <b><u>20,314</u></b> |

The value of the stock consideration was determined based on the fair value of the stock on the closing date, adjusted for a lack of marketability discount related to the Lock-Up Agreement. The value of the deferred consideration was determined based on the present value of the future payment using a market interest rate.

The following table summarizes the estimated fair values of the assets acquired and liabilities assumed on October 31, 2018, the date of acquisition (in thousands):

|                                     |           |                      |
|-------------------------------------|-----------|----------------------|
| Property and equipment              | \$        | 43                   |
| In-process research and development |           | 10,633               |
| Goodwill                            |           | 9,638                |
| <b>Net assets acquired</b>          | <b>\$</b> | <b><u>20,314</u></b> |

The Company allocated \$10.6 million of the purchase price to identifiable intangible assets of in-process research and development that met the separability and contractual legal criterion of ASC 805. IPR&D is principally the estimated fair value of the MST technology which had not reached commercial technological feasibility nor had alternative future use at the time of the acquisition and therefore the Company considered IPR&D, with assigned values to be allocated to the IPR&D assets acquired.

Goodwill is calculated as the difference between the acquisition-date fair value of the consideration transferred and the fair values of the assets acquired and liabilities assumed. The goodwill resulting from this acquisition arises largely from synergies expected from combining the intellectual property acquired from MST with the Company’s existing intellectual property as well as acquired employees. The goodwill is deductible for income tax purposes.

No revenue and a net loss of \$0.6 million associated with MST’s operations are included in the consolidated financial statements for the three months ended March 31, 2019.

## *Senhance Surgical Robotic System*

On September 21, 2015, the Company completed the strategic acquisition, through its wholly owned subsidiary TransEnterix International, from Sofar, of all of the assets, employees and contracts related to the advanced robotic system for minimally invasive laparoscopic surgery now known as the Senhance System.

Under the terms of the Purchase Agreement, the consideration consisted of the issuance of 15,543,413 shares of the Company's common stock (the "Securities Consideration") and approximately \$25.0 million U.S. Dollars and €27.5 million Euro in cash consideration (the "Cash Consideration"). On December 30, 2016, the Company and Sofar entered into an Amendment to the Purchase Agreement (the "Amendment") to restructure the terms of the second tranche of the Cash Consideration (the "Second Tranche"). The initial Securities Consideration was issued in full at the closing of the Senhance Acquisition; under the Amendment, the second tranche of the Cash Consideration was restructured, and an additional issuance of 3,722,685 shares of the Company's common stock with an aggregate fair market value of €5.0 million occurred in January 2017. Following the Amendment, the total Cash Consideration was \$25.0 million U.S. Dollars and approximately €22.5 million Euro, of which all but €15.1 million has been paid as of March 31, 2019. The majority of the remaining Cash Consideration to be paid is the third tranche of the Cash Consideration (the "Third Tranche") of €15.0 million which shall be payable upon achievement of trailing revenues from sales or services contracts of the Senhance System of at least €25.0 million over a calendar quarter. The Third Tranche payments will be accelerated in the event that (i) the Company or TransEnterix International is acquired, (ii) the Company significantly reduces or suspends selling efforts of the Senhance System, or (iii) the Company acquires a business that offers alternative products that are directly competitive with the Senhance System.

The Purchase Agreement contains customary representations and warranties of the parties and the parties have customary indemnification obligations, which are subject to certain limitations described further in the Purchase Agreement.

The Senhance Acquisition was accounted for as a business combination utilizing the methodology prescribed in ASC 805. The purchase price for the Senhance Acquisition was allocated to the assets acquired and liabilities assumed based on their estimated fair values.

#### **4. Cash, Cash Equivalents, and Restricted Cash**

Restricted cash at March 31, 2019 and December 31, 2018 includes \$0.6 million in cash accounts held as collateral primarily under the terms of an office operating lease, credit card agreement and automobile leases.

#### **5. Fair Value**

The Company held certain assets and liabilities that are required to be measured at fair value on a recurring basis. These assets and liabilities include cash and cash equivalents, restricted cash, contingent consideration and warrant liabilities. ASC 820-10 ("Fair Value Measurement Disclosure") requires the valuation using a three-tiered approach, which requires that fair value measurements be classified and disclosed in one of three tiers. These tiers are: Level 1, defined as quoted prices in active markets for identical assets or liabilities; Level 2, defined as valuations based on observable inputs other than those included in Level 1, such as quoted prices for similar assets and liabilities in active markets, or other inputs that are observable or can be corroborated by observable input data; and Level 3, defined as valuations based on unobservable inputs reflecting the Company's own assumptions, consistent with reasonably available assumptions made by other market participants. The Company did not have any transfers of assets and liabilities between Level 1, Level 2, and Level 3 of the fair value hierarchy during the three months March 31, 2019 and the year ended December 31, 2018.

For assets and liabilities recorded at fair value, it is the Company's policy to maximize the use of observable inputs and minimize the use of unobservable inputs when developing fair value measurements, in accordance with the fair value hierarchy. Fair value measurements for assets and liabilities where there exists limited or no observable market data and therefore, are based primarily upon estimates, are often calculated based on the economic and competitive environment, the characteristics of the asset or liability and other factors. Therefore, the results cannot be determined with precision and may not be realized in an actual sale or immediate settlement of the asset or liability. Additionally, there may be inherent weaknesses in any calculation technique, and changes in the underlying assumptions used, including discount rates and estimates of future cash flows, could significantly affect the results of current or future values. The Company utilizes fair value measurements to record fair value adjustments to certain assets and liabilities and to determine fair value disclosures.

As prescribed by U.S. GAAP, the Company groups assets and liabilities at fair value in three levels, based on the markets in which the assets and liabilities are traded and the reliability of the assumptions used to determine fair value. An adjustment to the pricing method used within either Level 1 or Level 2 inputs could generate a fair value measurement that effectively falls in a lower level in the hierarchy.

The determination of where an asset or liability falls in the hierarchy requires significant judgment. The Company evaluates its hierarchy disclosures and based on various factors, it is possible that an asset or liability may be classified differently from period to period. However, the Company expects changes in classifications between levels will be rare.

The carrying values of accounts receivable, short-term investments, interest receivable, accounts payable, and certain accrued expenses at March 31, 2019 and December 31, 2018, approximate their fair values due to the short-term nature of these items. The Company's notes payable balance also approximates fair value as of March 31, 2019 and December 31, 2018, as the interest rates on the notes payable approximate the rates available to the Company as of these dates.

The following are the major categories of assets measured at fair value on a recurring basis as of March 31, 2019 and December 31, 2018, using quoted prices in active markets for identical assets (Level 1); significant other observable inputs (Level 2); and significant unobservable inputs (Level 3):

| <b>March 31, 2019</b>                           |   |  |  |                  |
|---|---|--|--|------------------|
| (In thousands)<br>(unaudited)                   |   |  |  |                  |
| <u>Description</u>                              | <u>Quoted Prices in<br/>Active Markets for<br/>Identical Assets<br/>(Level 1)</u> | <u>Significant Other<br/>Observable Inputs<br/>(Level 2)</u> | <u>Significant<br/>Unobservable Inputs<br/>(Level 3)</u> | <u>Total</u>     |
| <b>Assets measured at fair value</b>            |   |  |  |                  |
| Cash and cash equivalents                       | \$ 25,545   | \$ —   | \$ —   | \$ 25,545        |
| Restricted cash                                 | 578   | —  | —  | 578              |
| <b>Total Assets measured at fair value</b>      | <b>\$ 26,123</b>  | <b>\$ —</b>  | <b>\$ —</b>  | <b>\$ 26,123</b> |
| <b>Liabilities measured at fair value</b>       |   |  |  |                  |
| Contingent consideration                        | \$ —  | \$ —   | \$ 11,635  | \$ 11,635        |
| Warrant liabilities                             | —   | —  | \$ 4,742   | \$ 4,742         |
| <b>Total liabilities measured at fair value</b> | <b>\$ —</b>   | <b>\$ —</b>  | <b>\$ 16,377</b>   | <b>\$ 16,377</b> |
| <b>December 31, 2018</b>                        |   |  |  |                  |
| (In thousands)                                  |   |  |  |                  |
| <u>Description</u>                              | <u>Quoted Prices in<br/>Active Markets for<br/>Identical Assets<br/>(Level 1)</u> | <u>Significant Other<br/>Observable Inputs<br/>(Level 2)</u> | <u>Significant<br/>Unobservable Inputs<br/>(Level 3)</u> | <u>Total</u>     |
| <b>Assets measured at fair value</b>            |   |  |  |                  |
| Cash and cash equivalents                       | \$ 21,061   | \$ —   | \$ —   | \$ 21,061        |
| Restricted cash                                 | 590   | —  | —  | 590              |
| <b>Total Assets measured at fair value</b>      | <b>\$ 21,651</b>  | <b>\$ —</b>  | <b>\$ —</b>  | <b>\$ 21,651</b> |
| <b>Liabilities measured at fair value</b>       |   |  |  |                  |
| Contingent consideration                        | \$ —  | \$ —   | \$ 10,637  | \$ 10,637        |
| Warrant liabilities                             | —   | —  | \$ 4,636   | \$ 4,636         |
| <b>Total liabilities measured at fair value</b> | <b>\$ —</b>   | <b>\$ —</b>  | <b>\$ 15,273</b>   | <b>\$ 15,273</b> |

The Company's financial liabilities consisted of contingent consideration potentially payable to Sofar related to the Senhance Acquisition in September 2015 (Note 3). This liability is reported as Level 3 as estimated fair value of the contingent consideration related to the acquisition requires significant management judgment or estimation and is calculated using the income approach, using various revenue and cost assumptions and applying a probability to each outcome. The change in fair value of the contingent consideration of \$1.0 million for the three months ended March 31, 2019 was primarily due to the passage of time. The change in fair value of the contingent consideration of \$0.6 million for the three months ended March 31, 2018 was primarily due to the passage of time on the fair value measurement and the impact of foreign currency exchange rates. Adjustments associated with the change in fair value of contingent consideration are included in the Company's consolidated statements of operations and comprehensive (loss) income.

On April 28, 2017, the Company sold 24.9 million units (the "Units"), each consisting of one share of the Company's Common Stock, a Series A warrant to purchase one share of Common Stock with an exercise price of \$1.00 per share (the "Series A Warrants"), and a Series B warrant to purchase 0.75 shares of Common Stock with an exercise price of \$1.00 per Unit (the "Series B Warrants," together with the Series A Warrants, the "Warrants"), at an offering price of \$1.00 per Unit. Each Series A Warrant was exercisable at any time beginning on the date of issuance, and from time to time thereafter, through and including the first anniversary of the issuance date, unless terminated earlier as provided in the Series A Warrant. Receipt of 510(k) clearance for the Senhance System on October 13, 2017 triggered the acceleration of the expiration date of the Series A Warrants to October 31, 2017. Each Series B Warrant may be exercised at any time beginning on the date of issuance and from time to time thereafter through and including the fifth anniversary of the issuance date.

The fair value of the Series A Warrants of \$2.5 million at the date of issuance was estimated using the Black-Scholes Merton model which used the following inputs: term of 1 year, risk free rate of 1.07%, no dividends, volatility of 73.14%, and share price of \$0.65 per share based on the trading price of the Company's Common Stock. All Series A Warrants were exercised as of December 31, 2017.

The change in fair value of all outstanding Series B Warrants for the three months ended March 31, 2019 and 2018 of an increase of \$0.1 million and a decrease of \$1.8 million, respectively, was included in the Company's consolidated statements of operations and comprehensive (loss) income. The following table presents the inputs and valuation methodologies used for the Company's fair value of the Series B Warrants:

| <b>Series B</b>                     | <b>March 31, 2019</b> | <b>December 31, 2018</b> | <b>April 28, 2017<br/>(date of issuance)</b> |
|-------------------------------------|-----------------------|--------------------------|--|
| Fair value                          | \$4.7 million         | \$4.6 million            | \$6.2 million                                |
| Valuation methodology               | Monte Carlo           | Monte Carlo              | Black-Scholes Merton                         |
| Term                                | 3.08 years            | 3.32 years               | 5 years                                      |
| Risk free rate                      | 2.21%                 | 2.47%                    | 1.81%  |
| Dividends                           | —                     | —                        | —  |
| Volatility                          | 82.37%                | 87.60%                   | 73.14%                                       |
| Share price                         | \$ 2.38               | \$ 2.26                  | \$ 0.65                                      |
| Probability of additional financing | 100% in 2019          | 100% in 2019             | Not Applicable                               |

The following table presents quantitative information about the inputs and valuation methodologies used for the Company's fair value measurements classified in Level 3 with the exception of the warrant liability, which is explained above as of March 31, 2019 and December 31, 2018:

|                          | <b>Valuation<br/>Methodology</b>        | <b>Significant<br/>Unobservable Input</b> | <b>Weighted Average<br/>(range, if<br/>applicable)</b> |
|--------------------------|---|---|--|
| Contingent consideration | Probability weighted<br>income approach | Milestone dates                           | 2019 to 2022   |
|                          |   | Discount rate                             | 10% to 12%   |

The following table summarizes the change in fair value, as determined by Level 3 inputs, for all assets and liabilities using unobservable Level 3 inputs for the three months ended March 31, 2019:

|                              | <b>Fair Value<br/>Measurement at<br/>Reporting Date<br/>(Level 3)</b> |                             |
|------------------------------|---|-----------------------------|
|                              | (In thousands)<br>(unaudited)   |                             |
|                              | Common stock<br>warrants  | Contingent<br>consideration |
| Balance at December 31, 2018 | \$ 4,636  | \$ 10,637                   |
| Change in fair value         | 106   | 998                         |
| Balance at March 31, 2019    | <u>\$ 4,742</u>   | <u>\$ 11,635</u>            |
| Current portion              | —   | 70                          |
| Long-term portion            | 4,742   | 11,565                      |
| Balance at March 31, 2019    | <u>\$ 4,742</u>   | <u>\$ 11,635</u>            |

#### 6. Accounts Receivable, Net

The following table presents the components of accounts receivable:

|                                      | <b>March 31,<br/>2019</b>     | <b>December 31,<br/>2018</b> |
|--------------------------------------|-------------------------------|------------------------------|
|                                      | (In thousands)<br>(unaudited) |                              |
| Gross accounts receivable            | \$ 8,610                      | \$ 8,640                     |
| Allowance for uncollectible accounts | (79)                          | (80)                         |
| Total accounts receivable, net       | <u>\$ 8,531</u>               | <u>\$ 8,560</u>              |

#### 7. Inventories

The components of inventories are as follows:

|                   | <b>March 31,<br/>2019</b>     | <b>December 31,<br/>2018</b> |
|-------------------|-------------------------------|------------------------------|
|                   | (In thousands)<br>(unaudited) |                              |
| Finished goods    | \$ 6,471                      | \$ 5,439                     |
| Raw materials     | 8,726                         | 5,502                        |
| Total inventories | <u>\$ 15,197</u>              | <u>\$ 10,941</u>             |

#### 8. Other Current Assets

The following table presents the components of other current assets:

|                     | <b>March 31,<br/>2019</b>     | <b>December 31,<br/>2018</b> |
|---------------------|-------------------------------|------------------------------|
|                     | (In thousands)<br>(unaudited) |                              |
| Advances to vendors | \$ 8,578                      | \$ 7,758                     |
| Prepaid expenses    | 1,593                         | 1,438                        |
| Other receivables   | 40                            | 9                            |
| Total               | <u>\$ 10,211</u>              | <u>\$ 9,205</u>              |

## 9. Property and Equipment

Property and equipment consisted of the following:

|  | March 31,<br>2019 | December 31,<br>2018 |
|--|-------------------|----------------------|
|  | (In thousands)    |                      |
|  | (unaudited)       |                      |
| Machinery, manufacturing and demonstration equipment | \$ 12,425         | \$ 12,320            |
| Computer equipment                                   | 2,297             | 2,260                |
| Furniture  | 635               | 639                  |
| Leasehold improvements                               | 2,272             | 2,280                |
| Total property and equipment                         | 17,629            | 17,499               |
| Accumulated depreciation and amortization            | (11,706)          | (11,162)             |
| Property and equipment, net                          | <u>\$ 5,923</u>   | <u>\$ 6,337</u>      |

Depreciation expense was approximately \$0.6 million and \$0.7 million, for the three months ended March 31, 2019 and 2018, respectively.

## 10. Goodwill, In-Process Research and Development and Intellectual Property

### Goodwill

Goodwill of \$93.8 million was recorded in connection with the Merger, as described in Note 1, goodwill of \$38.3 million was recorded in connection with the Senhance Acquisition, as described in Note 3, and goodwill of \$9.6 million was recorded in connection with the MST Acquisition, as described in Note 3. The carrying value of goodwill and the change in the balance for the three months ended March 31, 2019 is as follows:

|                                     | Goodwill         |
|-------------------------------------|------------------|
|                                     | (In thousands)   |
|                                     | (unaudited)      |
| Balance at December 31, 2018        | \$ 80,131        |
| Foreign currency translation impact | (622)            |
| Balance at March 31, 2019           | <u>\$ 79,509</u> |

Accumulated impairment of goodwill as of March 31, 2019 and December 31, 2018 was \$61.8 million.

No impairment was recorded as of March 31, 2019 and December 31, 2018. No impairment was recorded during the three months ended March 31, 2019 or 2018.

### In-Process Research and Development

As described in Note 3, on October 31, 2018, the Company acquired the assets from MST and recorded \$10.6 million of IPR&D. The estimated fair value of the IPR&D was determined using a probability-weighted income approach, which discounts expected future cash flows to present value. The projected cash flows were based on certain key assumptions, including estimates of future revenue and expenses, taking into account the stage of development of the technology at the acquisition date and the time and resources needed to complete development. The Company used a discount rate of 15% and cash flows that have been probability adjusted to reflect the risks of product integration, which the Company believes are appropriate and representative of market participant assumptions.

On October 13, 2017, upon receipt of regulatory clearance to commercialize the products associated with the IPR&D assets in the United States, the assets were deemed definite-lived, transferred to developed technology and are amortized based on their estimated useful lives.

The carrying value of the Company's IPR&D assets and the change in the balance for the three months ended March 31, 2019 is as follows:

|                                     | <b>In-Process<br/>Research and<br/>Development</b> |
|-------------------------------------|--|
|                                     | (In thousands)                                     |
|                                     | (unaudited)  |
| Balance at December 31, 2018        | \$ 10,747  |
| Foreign currency translation impact | (220)  |
| Balance at March 31, 2019           | <u>\$ 10,527</u>                                   |

#### *Intellectual Property*

As described in Note 3, on September 21, 2015, the Company acquired all of the developed technology related to the Senhance System and recorded \$48.5 million of intellectual property. The estimated fair value of the intellectual property was determined using a probability-weighted income approach, which discounts expected future cash flows to present value. The projected cash flows were based on certain key assumptions, including estimates of future revenue and expenses, taking into account the stage of development of the technology at the acquisition date and the time and resources needed to complete development. The Company used a discount rate of 45% and cash flows that have been probability adjusted to reflect the risks of product commercialization, which the Company believes are appropriate and representative of market participant assumptions.

As described in Note 3, on September 21, 2015, the Company acquired all of the assets related to the Senhance System and recorded \$17.1 million of IPR&D. The estimated fair value of the IPR&D was determined using a probability-weighted income approach, which discounts expected future cash flows to present value. The projected cash flows were based on certain key assumptions, including estimates of future revenue and expenses, taking into account the stage of development of the technology at the acquisition date and the time and resources needed to complete development. The Company used a discount rate of 45% and cash flows that have been probability adjusted to reflect the risks of product commercialization, which the Company believes are appropriate and representative of market participant assumptions. On October 13, 2017, upon regulatory approval and the ability to commercialize the products associated with the IPR&D assets, the assets were deemed definite-lived, reclassified to intellectual property and are now being amortized based on their estimated useful lives.

In November 2016, the Company agreed to enter into a technology and patents purchase agreement with Sofar to acquire from Sofar certain technology and intellectual property rights related to the Senhance Acquisition, and formerly licensed by the Company. The technology and patents were acquired in 2017 at an acquisition price of \$0.4 million.

The components of gross intellectual property, accumulated amortization, and net intellectual property as of March 31, 2019 and December 31, 2018 are as follows:

|                                  | <b>March 31, 2019</b>       |                             |  |                           | <b>December 31, 2018</b>    |                             |  |                           |
|----------------------------------|-----------------------------|-----------------------------|--|---------------------------|-----------------------------|-----------------------------|--|---------------------------|
|                                  | (In thousands)              |                             |  |                           | (In thousands)              |                             |  |                           |
|                                  | (unaudited)                 |                             |  |                           |                             |                             |  |                           |
|                                  | Gross<br>Carrying<br>Amount | Accumulated<br>Amortization | Foreign<br>currency<br>translation<br>impact | Net<br>Carrying<br>Amount | Gross<br>Carrying<br>Amount | Accumulated<br>Amortization | Foreign<br>currency<br>translation<br>impact | Net<br>Carrying<br>Amount |
| Developed technology             | \$ 66,413                   | \$ (33,151)                 | \$ 2,720                                     | \$ 35,982                 | \$ 66,413                   | \$ (30,550)                 | \$ 3,495                                     | \$ 39,358                 |
| Technology and patents purchased | 400                         | (82)                        | 22   | \$ 340                    | 400                         | (72)                        | 30   | 358                       |
| Total intellectual property      | <u>\$ 66,813</u>            | <u>\$ (33,233)</u>          | <u>\$ 2,742</u>                              | <u>\$ 36,322</u>          | <u>\$ 66,813</u>            | <u>\$ (30,622)</u>          | <u>\$ 3,525</u>                              | <u>\$ 39,716</u>          |

The weighted average remaining useful life of the developed technology and technology and patents purchased was 3.5 years and 8.1 years, respectively as of March 31, 2019. The weighted average remaining useful life of the developed technology and technology and patents purchased was 3.8 years and 8.3 years, respectively as of December 31, 2018.



## 11. Income Taxes

Income taxes have been accounted for using the asset and liability method in accordance with ASC 740 "Income Taxes". The Company computes its interim provision for income taxes by applying the estimated annual effective tax rate method. The Company estimates an annual effective tax rate of 4.6% for the year ending December 31, 2019. This rate does not include the impact of any discrete items. The Company incurred losses for the three month period ended March 31, 2019 and is forecasting additional losses through the year, resulting in an estimated net loss for both financial statement and tax purposes for the year ending December 31, 2019. Due to the Company's history of losses, there is not sufficient evidence to record a net deferred tax asset associated with the U.S., Luxembourg, Swiss, and Asian operations. Accordingly, a full valuation allowance has been recorded related to the net deferred tax asset in those jurisdictions. The Swiss jurisdiction has indefinite-lived intangibles that create deferred tax liabilities which cannot be offset against the deferred tax assets, resulting in a net deferred tax liability recorded in that jurisdiction. There is no net deferred tax asset recorded in relation to TransEnterix Italia and accordingly no valuation allowance has been recorded in that jurisdiction. The deferred tax benefit during the three months ended March 31, 2019 and 2018, was approximately \$0.6 million and \$0.9 million, respectively. The Israeli jurisdiction was profitable through March 31, 2019 and is projected to be profitable for the year ending December 31, 2019. Consequently, \$0.02 million of current tax expense was recorded during the three months ended March 31, 2019 for this jurisdiction.

The Company's effective tax rate for each of the three month periods ended March 31, 2019 and 2018 was 2.6% and 50.2%, respectively. At March 31, 2019, the Company had no unrecognized tax benefits that would affect the Company's effective tax rate.

The Tax Legislation subjects a U.S. shareholder to tax on global intangible low-taxed income ("GILTI") earned by certain foreign subsidiaries. The FASB Staff Q&A, Topic 740, No. 5, *Accounting for Global Intangible Low-Taxed Income*, states that an entity can make an accounting policy election to either recognize deferred taxes for temporary basis differences expected to reverse as GILTI in future years or to provide for the tax expense related to GILTI in the year the tax is incurred as a period expense only. Because the Company was evaluating the provision of GILTI as of December 31, 2017, no GILTI-related deferred amounts were recorded in 2017. The Company has elected to account for GILTI in the year the tax is incurred. The Company does not expect a GILTI inclusion for 2018 or 2019; no GILTI tax has been recorded for the three months ending March 31, 2019 or 2018.

## 12. Accrued Expenses

The following table presents the components of accrued expenses:

|                              | March 31,<br>2019 | December 31,<br>2018 |
|------------------------------|-------------------|----------------------|
|                              | (In thousands)    |                      |
|                              | (unaudited)       |                      |
| Compensation and benefits    | \$ 2,125          | \$ 6,225             |
| Consulting and other vendors | 1,933             | 895                  |
| Other                        | 646               | 539                  |
| Lease liability              | 733               | —                    |
| Royalties                    | 365               | 498                  |
| Legal and professional fees  | 380               | 432                  |
| Deferred rent                | —                 | 391                  |
| Taxes and other assessments  | 602               | 383                  |
| Interest                     | 260               | 256                  |
| Total                        | <u>\$ 7,044</u>   | <u>\$ 9,619</u>      |

### 13. Notes Payable

On May 23, 2018, the Company and its domestic subsidiaries, as co-borrowers, entered into a Loan and Security Agreement (the “Hercules Loan Agreement”) with several banks and other financial institutions or entities from time to time party to the Loan Agreement (collectively, the “Lender”) and Hercules Capital, Inc., as administrative agent and collateral agent (the “Agent”). Under the Hercules Loan Agreement, the Lender has agreed to make certain term loans to the Company in the aggregate principal amount of up to \$40.0 million, with funding of the first \$20.0 million tranche occurring on May 23, 2018 (the “Initial Funding Date”). On October 23, 2018, the Lender funded the second tranche of \$10.0 million under the Hercules Loan Agreement. The Company is entitled to make interest-only payments until December 1, 2020, and at the end of the interest-only period, the Company will be required to repay the term loans over an eighteen-month period based on an eighteen-month amortization schedule, with a final maturity date of June 1, 2022. The term loans will be required to be repaid if the term loans are accelerated following an event of default. As further described in Note 18, the Company amended the Hercules Loan Agreement to eliminate the availability of the Tranche III loan facility, add a new Tranche IV loan facility of up to \$20.0 million, revise certain financial covenants and make other changes.

The term loans bear interest at a rate equal to the greater of (i) 9.55% per annum (the “Fixed Rate”) and (ii) the Fixed Rate plus the prime rate (as reported in The Wall Street Journal) minus 5.00%. Following the draw of the third tranche, the Fixed Rate will be reduced to 9.20% effective on the first interest payment date to occur during the first fiscal quarter following the draw of the third tranche. On the Initial Funding Date, the Company was obligated to pay a facility fee of \$0.4 million, recorded as a debt discount. The Company also incurred other debt issuance costs totaling \$1.1 million in conjunction with its entry into the Hercules Loan Agreement. In addition, the Company is permitted to prepay the term loans in full at any time, with a prepayment fee of 3.0% of the outstanding principal amount of the loan in the first year after the Initial Funding Date, 2.0% if the prepayment occurs in the second year after the Initial Funding Date and 1.0% thereafter. Upon prepayment of the term loans in full or repayment of the term loans at the maturity date or upon acceleration, the Company is required to pay a final fee of 6.95% of the aggregate principal amount of term loans funded. The final payment fee is accreted to interest expense over the life of the term loan and included within notes payable on the consolidated balance sheet.

The Company’s obligations under the Hercules Loan Agreement are guaranteed by all current and future material foreign subsidiaries of the Company and are secured by a security interest in all of the assets of the Company and their current and future domestic subsidiaries and all of the assets of their current and future material foreign subsidiaries, including a security interest in the intellectual property. The Hercules Loan Agreement contains customary representations and covenants that, subject to exceptions, restrict the Company’s and its subsidiaries’ ability to do the following, among other things: declare dividends or redeem or repurchase equity interests; incur additional indebtedness and liens; make loans and investments; engage in mergers, acquisitions, and asset sales; transact with affiliates; undergo a change in control; add or change business locations; and engage in businesses that are not related to its existing business. Under the terms of the Hercules Loan Agreement, the Company is required to maintain cash and/or investment property in accounts which perfect the Agent’s first priority security interest in such accounts in an amount equal to the lesser of (i) (x) 120% of the then-outstanding principal balance of the term loans, including accrued interest and any other fees payable under the agreement to the extent accrued and payable plus (y) an amount equal to the then-outstanding accounts payable of the Company on a consolidated basis that are more than 90 days past due and (ii) 80% of the aggregate cash of the Company and its consolidated subsidiaries. As of March 31, 2019, the Company was in compliance with its debt covenants. The Agent is granted the option to invest up to \$2.0 million in any future equity offering broadly marketed by the Company to investors on the same terms as the offering to other investors.

In connection with its entrance into the Hercules Loan Agreement, the Company repaid its existing loan and security agreement (the “Innovatus Loan Agreement”) with Innovatus Life Sciences Lending Fund I, LP (“Innovatus”). The Company recognized a loss of \$1.4 million on the extinguishment of notes payable which is included in interest expense on the consolidated statement of operations and comprehensive loss for the year ended December 31, 2018. The Company paid \$0.7 million in final payment obligations and \$0.3 million in prepayment fees under the Innovatus Loan Agreement upon repayment.

Under the Innovatus Loan Agreement, entered into on May 10, 2017, Innovatus agreed to make certain term loans in the aggregate principal amount of up to \$17.0 million. Funding of the first \$14.0 million tranche occurred on May 10, 2017.

The Innovatus Loan Agreement allowed for interest-only payments for up to twenty-four months at a fixed rate equal to 11% per annum, of which 2.5% could be paid in-kind and added to the outstanding principal amount of the term loans until the earlier of (i) the first anniversary following the funding date and (ii) the Company’s failure to achieve an Interest-Only Milestone. At the end of the interest-only period, the Company would be required to repay the term loans over a two-year period, based on a twenty-four (24) month amortization schedule, with a final maturity date of May 10, 2021.

In connection with the Innovatus funding, the Company paid a facility fee of \$0.2 million on the date of funding of the first tranche and incurred additional debt issuance costs of approximately \$1.2 million, recorded as a debt discount. In addition, the Company issued warrants to Innovatus to purchase shares of the Company's common stock that will expire five (5) years from such issue date. The warrants issued in connection with funding of the first tranche entitle Innovatus to purchase up to 1,244,746 shares of the Company's common stock at an exercise price of \$1.00 per share. The Company estimated the fair value of the warrants to be \$0.3 million. The value of the warrants was classified as equity and recorded as a discount to the loan. The debt discount was amortized as interest expense using the effective interest method over the life of the loan. As of December 31, 2018, the unamortized debt discount was \$0.

In connection with its entrance into the Innovatus Loan Agreement, the Company repaid its then-existing credit facility with Silicon Valley Bank and Oxford Finance LLC, which loan and security agreement, as subsequently amended and restated is referred to as the "SVB Loan Agreement." The Company recognized a loss of \$0.3 million on the extinguishment of notes payable which is included in interest expense on the consolidated statement of operations and comprehensive loss for the year ended December 31, 2017. The Company paid \$1.3 million in final payment obligations and \$0.3 million in facility fees under the SVB Loan Agreement upon repayment.

In connection with the issuance of the notes payable and amendments under the SVB Loan Agreement, the Company incurred approximately \$0.4 million in debt issuance costs paid to Silicon Valley Bank and Oxford Finance and third parties and \$0.3 million in debt issuance costs related to issuance of warrants to such Prior Lenders. The unamortized balance of \$0.1 million as of December 31, 2016, was amortized using the effective interest method, until the debt was extinguished in May 2017. At the time of extinguishment in May 2017, \$0.1 million of unamortized debt issuance costs were included in the loss on extinguishment of notes payable.

#### 14. Warrants

The following table summarizes the change in warrants for the three months ended March 31, 2019:

|                                  | Number of Warrants | Weighted Average Exercise Price | Weighted Average Remaining Contractual Life (in years) | Weighted Average Fair Value |
|----------------------------------|--------------------|---------------------------------|--|-----------------------------|
| Outstanding at December 31, 2018 | 4,329,437          | \$ 1.03                         | 3.7  | \$ 0.26                     |
| Exercised                        | —                  | —                               | —  | —                           |
| Expired                          | —                  | —                               | —  | —                           |
| Outstanding at March 31, 2019    | <u>4,329,437</u>   | <u>\$ 1.03</u>                  | <u>3.5</u>   | <u>\$ 0.26</u>              |

#### 15. Purchase Agreement, Controlled Equity Offering and Public Offering of Common Stock

On December 28, 2018, the Company entered into an At-the-Market Equity Offering Sales Agreement (the "2018 Sales Agreement") with Stifel, as sales agent, pursuant to which the Company can sell through Stifel, from time to time, up to \$75.0 million in shares of common stock in an at-the-market offering. All sales of shares will be made pursuant to an effective shelf registration statement on Form S-3 filed with the SEC. The Company pays Stifel a commission of approximately 3% of the aggregate gross proceeds received from all sales of common stock under the 2018 Sales Agreement. Unless otherwise terminated earlier, the 2018 Sales Agreement continues until all shares available under the Sales Agreement have been sold or termination of the 2018 Sales Agreement by the Company or by Stifel. As of March 31, 2019, there were no sales of common stock under the 2018 Sales Agreement.

On April 28, 2017, the Company sold 24.9 million units, each consisting of one share of the Company's common stock, a Series A warrant to purchase one share of common stock, and a Series B warrant to purchase 0.75 shares of common stock, at a public offering price of \$1.00 per unit for aggregate gross proceeds of \$24.9 million in an underwritten firm commitment public offering. Net proceeds after issuance costs were \$23.2 million, assuming no exercise of the warrants. The closing of the public offering occurred on May 3, 2017.

On August 31, 2017, the Company entered into an At-the-Market Equity Offering Sales Agreement (the "2017 Sales Agreement") with Stifel, Nicolaus & Company, Incorporated ("Stifel"), as sales agent, pursuant to which the Company sold through Stifel, up to \$50.0 million in shares of common stock in an at-the-market offering. The Company paid Stifel a commission of approximately 3% of the aggregate gross proceeds received from all sales of common stock under the 2017 Sales Agreement.

The amounts offered and sold under the 2017 Sales Agreement are as set forth below (in thousands, except per share amounts):

|                                   | <b>2017 Sales<br/>Agreement</b>             |
|-----------------------------------|---|
|                                   | <b>Year Ended<br/>December 31,<br/>2017</b> |
| Total shares of common stock sold | 15,998.5                                    |
| Average price per share           | \$ 3.13                                     |
| Gross proceeds                    | \$ 50,000                                   |
| Commissions earned by Cantor      | \$ 1,500                                    |
| Other issuance costs              | \$ 97                                       |

#### **16. Basic and Diluted Net Loss per Share**

Basic net loss per common share is computed by dividing net loss attributable to common stockholders by the weighted average number of common shares outstanding during the period. Diluted net loss per common share is computed giving effect to all dilutive potential common shares that were outstanding during the period. Diluted potential common shares consist of incremental shares issuable upon exercise of stock options, warrants and restricted stock units. In computing diluted net loss per share for the three months ended March 31, 2019 and 2018, no adjustment has been made to the weighted average outstanding common shares as the assumed exercise of outstanding options, warrants and restricted stock units would be anti-dilutive. As of March 31, 2019, there were 25,625,607 outstanding options, 4,329,437 outstanding warrants, and 6,206,257 unvested restricted stock units.

#### **17. Commitments and Contingencies**

##### *Contingent Consideration*

As discussed in Note 3, in September 2015, the Company completed the Senhance Acquisition using a combination of cash, stock and potential post-acquisition milestone payments. These milestone payments may be payable in the future, depending on the achievement of certain regulatory and commercial milestones. On December 30, 2016, the Company entered into an Amendment to restructure the terms of the Second Tranche of the Cash Consideration. Under the Amendment, the Second Tranche was restructured to reduce the contingent cash consideration by €5.0 million in exchange for the issuance of 3,722,685 shares of the Company's common stock with an aggregate fair market value of €5.0 million. As of March 31, 2019 and December 31, 2018, the fair value of the contingent consideration was \$11.6 million and \$10.6 million, respectively.

##### *Legal Proceedings*

No liability or related charge was recorded to earnings in the Company's consolidated financial statements for legal contingencies for the three months ended March 31, 2019 or the year ended December 31, 2018.

#### **18. Subsequent Event**

Effective April 30, 2019, the Hercules Loan Agreement was amended (the "Hercules Amendment") to eliminate the availability of the Tranche III Loan facility, add a new Tranche IV Loan facility of up to \$20 million, revise certain financial covenants and make other changes. The availability of advances under the Tranche IV Loan is not milestone-based, rather the Company can request advances in minimum \$5 million increments at any time during the period from July 1, 2019 through December 31, 2020, subject to the funding discretion of the Lender. The monthly trailing six month net revenue financial covenant was amended to be tested quarterly and to change the projected net revenue percentage to be met for the six months ending on the last day of each fiscal quarter. If such quarterly financial covenant is not achieved as of the last day of any fiscal quarter, as tested on the thirtieth day after quarter end, the Company must comply with the waiver conditions in the Hercules Amendment from such test date until the next quarterly test date. The Hercules Amendment was executed by the parties on May 7, 2019.

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

*The following discussion of our financial condition and results of operations should be read in conjunction with our consolidated financial statements and the related notes to our consolidated financial statements included in this report. The following discussion contains forward-looking statements. See cautionary note regarding "Forward-Looking Statements" at the beginning of this report.*

### Overview

TransEnterix is a medical device company that is digitizing the interface between the surgeon and the patient in laparoscopy to increase control and reduce surgical variability in today's value-based healthcare environment. The Company is focused on the commercialization of the Senhance™ System, that digitizes laparoscopic minimally invasive surgery. The Senhance System allows for robotic precision, haptic feedback, surgeon camera control via eye sensing and improved ergonomics while offering responsible economics.

The Senhance System has a CE Mark in Europe for laparoscopic abdominal and pelvic surgery, as well as limited thoracic operations excluding cardiac and vascular surgery. On October 13, 2017, the Company received 510(k) clearance from the FDA for use of the Senhance System in laparoscopic colorectal and gynecologic surgery. These indications cover 23 procedures, including benign and oncologic procedures. In May 2018, the indications for use expanded when the Company received 510(k) clearance from the FDA for use of the Senhance System in laparoscopic inguinal hernia and laparoscopic cholecystectomy (gallbladder removal) surgery for a total of 28 indicated procedures. The Senhance System is available for sale in the U.S., the EU and select other countries.

The Senhance System is a multi-port robotic surgery system that allows multiple robotic arms to control instruments and a camera. The system features advanced technology to enable surgeons with haptic feedback and the ability to move the camera via eye movement.

On October 31, 2018, the Company acquired the assets, intellectual property and highly experienced multidisciplinary personnel of MST Medical Surgical Technologies, Inc., or MST, an Israeli-based medical device company. Through this acquisition the Company acquired MST's AutoLap™ technology, one of the only image-guided robotic scope positioning systems with FDA clearance and CE Mark. The Company believes MST's image analytics technology will accelerate and drive meaningful Senhance System developments, and allow it to expand the Senhance System to add augmented, intelligent vision capability.

During 2018 and early 2019, the Company successfully obtained FDA clearance and CE Mark for 3 millimeter diameter instruments and its Senhance ultrasonic system. The 3 millimeter instruments enable the Senhance System to be used for microlaparoscopic surgeries, allowing for tiny incisions, and the ultrasonic system is an advanced energy device used to deliver controlled energy to ligate and divide tissue, while minimizing thermal injury to surrounding structures.

The Company has also developed the SurgiBot System, a single-port, robotically enhanced laparoscopic surgical platform. In December 2017, the Company entered into an agreement with Great Belief International Limited, or GBIL, to advance the SurgiBot System towards global commercialization. The agreement transferred ownership of the SurgiBot System assets, while the Company retained the option to distribute or co-distribute the SurgiBot System outside of China. GBIL intends to have the SurgiBot System manufactured in China and obtain Chinese regulatory clearance from the China Food and Drug Administration while entering into a nationwide distribution agreement with China National Scientific and Instruments and Materials Company for the Chinese market. The agreement provides the Company with proceeds of at least \$29 million, of which \$15 million has been received to date. The remaining \$14.0 million, representing minimum royalties, will be paid beginning at the earlier of receipt of Chinese regulatory approval or March 2023.

The Company believes that future outcomes of minimally invasive laparoscopic surgery will be enhanced through its combination of more advanced tools and robotic functionality, that are designed to: (i) empower surgeons with improved precision, dexterity and visualization; (ii) improve patient satisfaction and enable a desirable post-operative recovery; and (iii) provide a cost-effective robotic system, compared to existing alternatives today, for a wide range of clinical indications.

From our inception, we devoted a substantial percentage of our resources to research and development and start-up activities, consisting primarily of product design and development, clinical studies, manufacturing, recruiting qualified personnel and raising capital.

Since inception, we have been unprofitable. As of March 31, 2019, we had an accumulated deficit of \$531.9 million.

We expect to continue to invest in research and development and sales and marketing and increase selling, general and administrative expenses as we grow. As a result, we will need to generate significant revenue in order to achieve profitability.

We operate in one business segment.

### **Debt Refinancing**

On May 23, 2018, the Company and its domestic subsidiaries, as co-borrowers, entered into a Loan and Security Agreement (the “Hercules Loan Agreement”) with several banks and other financial institutions or entities from time to time party to the Hercules Loan Agreement (collectively, the “Lender”) and Hercules Capital, Inc., as administrative agent and collateral agent (the “Agent”). Under the Hercules Loan Agreement, the Lender has agreed to make certain term loans to the Company in the aggregate principal amount of up to \$40.0 million, with funding of the first \$20.0 million tranche occurring on May 23, 2018 (the “Initial Funding Date”). On October 23, 2018, the Lender funded the second tranche of \$10.0 million under the Hercules Loan Agreement. The Company is entitled to make interest-only payments until December 1, 2020, and at the end of the interest-only period, the Company will be required to repay the term loans over an eighteen-month period based on an eighteen-month amortization schedule, with a final maturity date of June 1, 2022. The term loans will be required to be repaid if the term loans are accelerated following an event of default. The Company is in compliance with its debt covenants under the Hercules Loan Agreement as of March 31, 2019. Effective April 30, 2019, the Hercules Loan Agreement was amended (the “Hercules Amendment”) to eliminate the availability of the Tranche III loan facility, add a new Tranche IV loan facility of up to \$20 million, revise certain financial covenants and make other changes.

The term loans bear interest at a rate equal to the greater of (i) 9.55% per annum (the “Fixed Rate”) and (ii) the Fixed Rate plus the prime rate (as reported in The Wall Street Journal) minus 5.0%. Following the draw of the third tranche, the Fixed Rate will be reduced to 9.2% effective on the first interest payment date to occur during the first fiscal quarter following the draw of the third tranche. On the Initial Funding Date, the Company was obligated to pay a facility fee of \$0.4 million. In addition, the Company is permitted to prepay the term loans in full at any time, with a prepayment fee of 3.0% of the outstanding principal amount of loan in the first year after the Initial Funding Date, 2.0% if the prepayment occurs in the second year after the Initial Funding Date and 1.0% thereafter. Upon prepayment of the term loans in full or repayment of the terms loans at the maturity date or upon acceleration, the Company is required to pay a final fee of 6.95% of the aggregate principal amount of term loans funded.

The Company’s obligations under the Hercules Loan Agreement are guaranteed by all current and future material foreign subsidiaries of the Company and are secured by a security interest in all of the assets of the Company and their current and future domestic subsidiaries and all of the assets of their current and future material foreign subsidiaries, including a security interest in the intellectual property. The Hercules Loan Agreement contains customary representations and covenants that, subject to exceptions, restrict the Company’s and its subsidiaries’ ability to do the following, among things: declare dividends or redeem or repurchase equity interests; incur additional indebtedness and liens; make loans and investments; engage in mergers, acquisitions, and asset sales; transact with affiliates; undergo a change in control; add or change business locations; and engage in businesses that are not related to its existing business. Under the terms of the Hercules Loan Agreement, the Company is required to maintain cash and/or investment property in accounts which perfect the Agent’s first priority security interest in such accounts in an amount equal to the lesser of (i) (x) 120% of the then-outstanding principal balance of the term loans, including accrued interest and any other fees payable under the agreement to the extent accrued and payable plus (y) an amount equal to the then-outstanding accounts payable of the Company on a consolidated basis that are more than 90 days past due and (ii) 80% of the aggregate cash of the Company and its consolidated subsidiaries. The Agent is granted the option to invest up to \$2.0 million in any future equity offering broadly marketed by the Company to investors on the same terms as the offering to other investors.

In connection with its entrance into the Hercules Loan Agreement, the Company repaid its existing credit facility with Innovatus Life Sciences Lending Fund I, LP (“Innovatus”) entered into on May 10, 2017, which loan and security agreement is referred to as the Innovatus Loan Agreement. For a description of the Innovatus Loan Agreement, see “Notes to Consolidated Financial Statements (Unaudited)– Note. 13. Notes Payable”, and incorporated by reference herein.

### **Public Offering of Units**

On April 28, 2017, we entered into an underwriting agreement with Stifel, Nicolaus & Company, Incorporated (the “Underwriter”) relating to an underwritten public offering of an aggregate of 24,900,000 Units, each consisting of one share of the Company’s Common Stock, a Series A Warrant to purchase one share of Common Stock and a Series B Warrant to purchase 0.75 shares of Common Stock at an offering price to the public of \$1.00 per Unit. Certain of the Company’s officers, directors and existing stockholders purchased approximately \$2.5 million of Units in the public offering. The closing of the public offering occurred on May 3, 2017.

Each Series A Warrant had an initial exercise price of \$1.00 per share and was able to be exercised at any time beginning on the date of issuance, and from time to time thereafter, through and including the first anniversary of the issuance date, unless terminated earlier as provided in the Series A Warrant. Receipt of 510(k) clearance for the Senhance System on October 13, 2017, triggered the acceleration of the expiration date of the Series A Warrants to October 31, 2017. As of December 31, 2017, all of the Series A Warrants had been exercised.

Each Series B Warrant has an initial exercise price of \$1.00 per share and may be exercised at any time beginning on the date of issuance and from time to time thereafter through and including the fifth anniversary of the issuance date, or by May 3, 2022. As of March 31, 2019, Series B Warrants representing approximately 15.9 million shares had been exercised.

The exercise prices and the number of shares issuable upon exercise of the outstanding Series B Warrants are subject to adjustment upon the occurrence of certain events, including, but not limited to, stock splits or dividends, business combinations, sale of assets, similar recapitalization transactions, or other similar transactions. The Series B Warrants are subject to adjustment in the event that the Company issues or is deemed to issue shares of common stock for less than the then applicable exercise price of the Series B Warrants. The exercisability of the Series B Warrants may be limited if, upon exercise, the holder or any of its affiliates would beneficially own more than 4.99% of our common stock. If, at any time Series B Warrants are outstanding, any fundamental transaction occurs, as described in the Series B Warrants and generally including any consolidation or merger into another corporation, the consummation of a transaction whereby another entity acquires more than 50% of the Company's outstanding voting stock, or the sale of all or substantially all of its assets, the successor entity must assume in writing all of the obligations to the Series B Warrant holders. Additionally, in the event of a fundamental transaction, each Series B Warrant holder will have the right to require the Company, or its successor, to repurchase the Series B Warrants for an amount of cash equal to the Black-Scholes value of the remaining unexercised portion of such Series B Warrants.

The underwriting agreement contains customary representations, warranties and agreements by the Company, customary conditions to closing, indemnification obligations of the Company and the Underwriter, including for liabilities under the Securities Act of 1933, as amended, other obligations of the parties and termination provisions. The representations, warranties and covenants contained in the underwriting agreement were made only for purposes of such agreement and as of specific dates, were solely for the benefit of the parties to such agreement, and may be subject to limitations agreed upon by the contracting parties.

The net proceeds to the Company from the offering were approximately \$23.2 million, prior to any exercise of the Series A Warrants or Series B Warrants, after deducting underwriting discounts and commissions and estimated offering expenses paid by the Company. The net proceeds to the Company from the exercise of all of the Series A Warrants and the Series B Warrants exercised prior to March 31, 2019 were approximately \$37.6 million.

The Units were issued pursuant to a prospectus supplement dated April 28, 2017 and an accompanying base prospectus dated June 22, 2016 that form a part of the registration statement on Form S-3 that the Company filed with the SEC on November 7, 2014 and was declared effective on December 19, 2014 (File No. 333-199998), and post-effectively amended pursuant to Post-Effective Amendment No. 1 on Form S-3, as filed with the SEC on March 8, 2016 and declared effective on June 22, 2016 and a related registration statement filed pursuant to Rule 462(b) promulgated under the Securities Act of 1933.

On December 15, 2017, we filed a registration statement on Form S-3 (File No. 333-222103) to register shares of common stock underlying outstanding Series B Warrants previously issued as part of the Company's May 3, 2017 public offering. The new registration statement replaced the registration statement on Form S-3 that expired on December 19, 2017 with respect to these securities. On January 26, 2018, we filed an Amendment No. 1 to such registration statement on Form S-3 to update the information, in the registration statement. The registration statement covers up to 9,579,884 shares of common stock underlying the outstanding Series B Warrants. This registration statement on Form S-3 was declared effective on January 29, 2018.

#### **Lincoln Park Purchase Agreement**

On December 16, 2016, we entered into a purchase agreement, or the LPC Purchase Agreement, with Lincoln Park Capital Fund, LLC, an Illinois limited liability company, or Lincoln Park, pursuant to which we had the right to sell to Lincoln Park up to an aggregate of \$25.0 million in shares of our common stock, subject to certain limitations and conditions set forth in the LPC Purchase Agreement. Effective April 27, 2017, we terminated the LPC Purchase Agreement. The LPC Purchase Agreement provided us with an election to terminate the Purchase Agreement for any reason or for no reason by delivering a notice to Lincoln Park, and we did not incur any early termination penalties in connection with the termination of the LPC Purchase Agreement. Prior to termination, we sold shares of our common stock to Lincoln Park under the LPC Purchase Agreement for gross proceeds of approximately \$5.7 million.

## **At-the-Market Offerings**

On December 28, 2018, we entered into an At-the-Market Equity Offering Sales Agreement, or the 2018 Sales Agreement with Stifel, under which we could offer and sell, through Stifel, up to approximately \$75.0 million in shares of common stock in an at-the-market offering, or the 2018 ATM Offering. All sales of shares will be made pursuant to an effective shelf registration statement on Form S-3 filed with the SEC. We will pay Stifel a commission of approximately 3% of the aggregate gross proceeds received from all sales of common stock under the 2018 Sales Agreement. Unless otherwise terminated earlier, the 2018 Sales Agreement continues until all shares available under the Sales Agreement have been sold or termination of the 2018 Sales Agreement by the Company or by Stifel. As of March 31, 2019, there were no sales of common stock under the 2018 ATM Offering.

## **MST Acquisition and Related Transactions**

### ***Purchase Agreement***

On September 23, 2018, the Company entered into an Asset Purchase Agreement (the “MST Purchase Agreement”) with MST Medical Surgery Technologies Ltd., an Israeli private company (the “Seller”), and two of the Company’s wholly owned subsidiaries, as purchasers of the assets of the Seller, including the intellectual property assets (collectively, the “Buyers”). The closing of the transactions contemplated by the MST Purchase Agreement occurred on October 31, 2018, pursuant to which the Company acquired the Seller’s assets consisting of intellectual property and tangible assets related to surgical analytics with its core image analytics technology designed to empower and automate the surgical environment, with a focus on medical robotics and computer-assisted surgery. The core technology acquired under the MST Purchase Agreement is a software-based image analytics information platform powered by advanced visualization, scene recognition, artificial intelligence, machine learning and data analytics.

Under the terms of the MST Purchase Agreement, at the closing the Buyers purchased substantially all of the assets of the Seller. The acquisition price consisted of two tranches. At or prior to the closing of the transaction the Buyers paid \$5.8 million in cash and the Company issued 3.15 million shares of the Company’s common stock. A second tranche of \$6.6 million in additional consideration will be payable in cash, stock or cash and stock, at the discretion of the Company, within one year after the closing date.

The MST Purchase Agreement contains customary representations and warranties of the parties and the parties have customary indemnification obligations, which are subject to certain limitations described further in the MST Purchase Agreement.

### ***Registration Rights and Lock-Up Agreements***

In connection with the closing under the MST Purchase Agreement (the “MST Acquisition”), the Company and the Seller entered into a Lock-Up Agreement, dated October 31, 2018, pursuant to which the Seller agreed, subject to certain exceptions, not to sell, transfer or otherwise convey any of the shares of Company common stock (the “Securities Consideration”) for six months following the Closing Date. The Lock-Up Agreement further provides that the Seller may sell, transfer or convey: (i) no more than 50% of the Securities Consideration during the period commencing on the six-month anniversary of the Closing Date and ending on the twelve-month anniversary of the Closing Date; and (ii) no more than 75% of the Securities Consideration during the period commencing on the twelve-month anniversary of the Closing Date and ending on the eighteen-month anniversary of the Closing Date. The restrictions on transfer contained in the Lock-Up Agreement cease to apply to the Securities Consideration following the eighteen-month anniversary of the closing date of the MST Acquisition, or earlier upon certain other conditions. The Lock-Up Agreement further provides that the Seller may not sell, transfer or convey the additional consideration, if such additional consideration is paid in whole or in part through the issuance of shares of the Company’s common stock, until after the six-month anniversary of the issuance of the Company’s common stock as additional consideration, or earlier upon certain other conditions.

In connection with the MST Acquisition closing, the Company also entered into a Registration Rights Agreement, dated as of October 31, 2018, with the Seller, pursuant to which the Company agreed to register the Securities Consideration such that such Securities Consideration is eligible for resale following the end of the lock-up periods described above.

## **Senhance Acquisition and Related Transactions**

### ***Membership Interest Purchase Agreement and Amendment***

On September 21, 2015, the Company announced that it had entered into a Membership Interest Purchase Agreement, dated September 18, 2015 with Sofar S.p.A., as the Seller, Vulcanos S.r.l., as the acquired company, and TransEnterix International, Inc., a wholly owned subsidiary of the Company as the Buyer. The closing of the transactions contemplated by the Purchase Agreement occurred on September 21, 2015. The Buyer acquired all of the membership interests of the acquired company from the Seller, and changed the name of the acquired company to TransEnterix Italia S.r.l. On the closing date, pursuant to the Purchase Agreement, the Company completed the strategic acquisition from Sofar S.p.A. of all of the assets, employees and contracts related to the advanced robotic system for minimally invasive laparoscopic surgery now known as the Senhance System, or the Senhance Acquisition.



Under the terms of the Purchase Agreement, the consideration consisted of the issuance of 15,543,413 shares of the Company's common stock, or the Securities Consideration, and approximately \$25.0 million U.S. Dollars and €27.5 million Euro in cash consideration, or the Cash Consideration. The Securities Consideration was issued in full at closing of the acquisition; the Cash Consideration was or will be paid in four tranches, with U.S. \$25.0 million paid at closing and the remaining Cash Consideration of €27.5 million to be paid in three additional tranches based on achievement of negotiated milestones. On December 30, 2016, the Company and Sofar entered into an Amendment to the Purchase Agreement to restructure the terms of the second tranche of the Cash Consideration. Under the Amendment, the second tranche was restructured to reduce the contingent cash consideration by €5.0 million in exchange for the issuance of 3,722,685 shares of the Company's common stock with an aggregate fair market value of €5.0 million, which were issued on January 4, 2017. The price per share was \$1.404 and was calculated based on the average of the closing prices of the Company's common stock on ten consecutive trading days ending one day before the execution of the Amendment.

The issuance of the initial Securities Consideration was effected as a private placement of securities under Section 4(a)(2) of the Securities Act, and Regulation D promulgated thereunder. The issuance of the additional shares in January 2017 was made under an existing shelf registration statement on Form S-3.

As of March 31, 2019, the Company has paid all Cash Consideration due under the second tranche and approximately €2.4 million of the €2.5 million due under the fourth tranche. The fourth tranche of the Cash Consideration is payable in installments by December 31 of each year as reimbursement for certain debt payments made by Sofar under an existing Sofar loan agreement in such year.

The Purchase Agreement contains customary representations and warranties of the parties and the parties have customary indemnification obligations, which are subject to certain limitations described further in the Purchase Agreement.

### ***Registration Rights***

In connection with the Senhance Acquisition, we also entered into a Registration Rights Agreement, dated as of September 21, 2015, with the Seller, pursuant to which we agreed to register the Securities Consideration shares for resale following the end of the lock-up periods. The resale Registration Statement has been filed and is effective.

### **Results of Operations**

#### **Revenue**

In the first quarter of 2019, our revenue consisted of product and service revenue resulting from the sale of a total of one Senhance System in Asia, and related instruments, accessories and services for current and prior year system sales. In the first quarter of 2018, our revenue consisted of product and service revenue resulting from the sale of a total of two Senhance Systems in Europe, and related instruments, accessories and services.

We expect to experience some unevenness in the number and trend, and average selling price, of units sold given the early stage of commercialization of our products.

Product and service revenue for the three months ended March 31, 2019 decreased to \$2.2 million compared to \$4.8 million for the three months ended March 31, 2018. The \$2.6 million decrease was the result of the unevenness in units sold during the early stage of commercialization.

#### **Cost of Revenue**

Cost of revenue consists primarily of costs related to contract manufacturing, materials, and manufacturing overhead. We expense all inventory provisions as cost of revenue. The manufacturing overhead costs include the cost of quality assurance, material procurement, inventory control, facilities, equipment depreciation and operations supervision and management. We expect overhead costs as a percentage of revenues to become less significant as our production volume increases. We expect cost of revenue to increase in absolute dollars to the extent our revenues grow and as we continue to invest in our operational infrastructure to support anticipated growth.

Cost of revenue for the three months ended March 31, 2019 decreased to \$2.5 million as compared to \$2.6 million for the three months ended March 31, 2018. This decrease over the prior year period was the result of decreased sales, offset by increased costs for manufacturing overhead and field service.

## **Research and Development**

Research and development, or R&D expenses primarily consist of engineering, product development and regulatory expenses incurred in the design, development, testing and enhancement of our products and legal services associated with our efforts to obtain and maintain broad protection for the intellectual property related to our products. In future periods, we expect R&D expenses to increase moderately as we continue to invest in new products, instruments and accessories to be offered with the Senhance System. R&D expenses are expensed as incurred.

R&D expenses for the three months ended March 31, 2019 increased 8% to \$5.7 million as compared to \$5.3 million for the three months ended March 31, 2018. The \$0.4 million increase primarily relates to increased personnel related costs of \$1.1 million and increased supplies expense of \$0.1 million, offset by decreased other costs of \$0.7 million and decreased consulting and outside service costs of \$0.1 million.

## **Sales and Marketing**

Sales and marketing expenses include costs for sales and marketing personnel, travel, demonstration product, market development, physician training, tradeshow, marketing clinical studies and consulting expenses. We expect sales and marketing expenses to continue to increase significantly in support of our Senhance System commercialization.

Sales and marketing expenses for the three months ended March 31, 2019 increased 28% to \$7.7 million compared to \$6.0 million for the three months ended March 31, 2018. The \$1.7 million increase was primarily related to increased travel related expenses of \$0.6 million, increased personnel related costs of \$0.3 million, increased demonstration product costs of \$0.3 million, increased consulting and outside service costs of \$0.2 million, increased tradeshow costs of \$0.2 million and increased other costs of \$0.1 million as we increased our U.S. sales and marketing team following receipt of 510(k) clearance for the Senhance System.

## **General and Administrative**

General and administrative expenses consist of personnel costs related to the executive, finance and human resource functions, as well as professional service fees, legal fees, accounting fees, insurance costs, and general corporate expenses. In future periods, we expect general and administrative expenses to increase to support our sales, marketing, and research and development efforts.

General and administrative expenses for the three months ended March 31, 2019 increased 70% to \$4.6 million compared to \$2.7 million for the three months ended March 31, 2018. The \$1.9 million increase was primarily due to increased personnel costs of \$1.1 million, increased outsourced services expense of \$0.6 million and increased other costs of \$0.2 million. The increase primarily relates to increased support of sales, marketing, and research and development efforts as we shift to commercialization.

## **Loss (Gain) from Sale of SurgiBot Assets, Net**

The loss from the sale of SurgiBot assets to GBIL of \$0.1 million for the three months ended March 31, 2019 was primarily due to additional outside service costs to transfer the assets. The gain from the sale of SurgiBot assets, net of \$12.0 million for the three months ended March 31, 2018, is further explained in the "Overview" section.

## **Amortization of Intangible Assets**

Amortization of intangible assets for the three months ended March 31, 2019 decreased to \$2.6 million compared to \$2.8 million for the three months ended March 31, 2018. The \$0.2 million decrease was primarily the result of foreign currency exchange rates.

## **Change in Fair Value of Contingent Consideration**

The change in fair value of contingent consideration in connection with the Senhance Acquisition was a \$1.0 million increase for the three months ended March 31, 2019 compared to a \$0.6 million increase for the three months ended March 31, 2018. The \$0.4 million increase was primarily due to the passage of time on the fair value measurement and the impact of foreign currency exchange rates.

## **Change in Fair Value of Warrant Liabilities**

The change in fair value of Series B Warrants issued in April 2017 was a \$0.1 million increase for the three months ended March 31, 2019 compared to \$1.8 million decrease for the three months ended March 31, 2018. The net \$1.9 million decrease for the three months ended March 31, 2019 includes remeasurement of the outstanding warrants at March 31, 2019. The expense related to the warrants outstanding at March 31, 2019 was primarily the result of the difference between the stock price at March 31, 2019 and at December 31, 2018. All Series A Warrants were exercised as of December 31, 2018.

**Interest Income**

Interest income for the three months ended March 31, 2019 was \$0.3 million for the three months ended March 31, 2019 and 2018.

**Interest Expense**

Interest expense for the three months ended March 31, 2019 increased to \$1.1 million compared to \$0.7 million for the three months ended March 31, 2018. The \$0.4 million increase was primarily related to the increase in notes payable.

**Income Tax Benefit**

Income tax benefit consists primarily of taxes related to the amortization of purchase accounting intangibles in connection with the Italian taxing jurisdiction for TransEnterix Italia as a result of the acquisition of the Senhance System. We recognized \$0.6 million and \$0.9 million of income tax benefit for the three months ended March 31, 2019 and 2018, respectively.

**Liquidity and Capital Resources**

Our financial statements have been presented on the basis that our business is a going concern, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. We are subject to risks and uncertainties like any business as we try to increase product placements, enhance product offerings, establish long-term license arrangements, create collaborations / strategic alliances and expand into new markets. We have incurred operating losses and negative operating cash flows since inception, and we expect to continue to incur operating losses and negative operating cash flows for at least the next few years. Management has made estimates of future results of operations, using a wide range of assumptions regarding the level of revenue generated, operating expense incurred and future cash flows, which suggest a wide range of possible future outcomes.

With the funds available at March 31, 2019, the Company believes current resources will be sufficient to fund its operations through the next twelve months. The Company believes it has the ability to access additional funding through equity offerings, debt financings / restructuring, and/or other third-party sources to continue as a going concern into the foreseeable future. No assurances can be given that we will ultimately be able to raise sufficient funds through other means to be able to continue operating our business at current levels beyond the next twelve months.

**Sources of Liquidity**

Our principal sources of cash to date have been proceeds from public offerings of common stock, private placements of common and preferred stock, incurrence of debt and the sale of equity securities held as investments.

We currently have one effective shelf registration statement on file with the SEC, which registers up to \$150.0 million of debt securities, common stock, preferred stock, or warrants, or any combination thereof for future financing transactions. The shelf registration statement was declared effective by the SEC on May 19, 2017. We have raised \$50.0 million in gross proceeds and approximately \$48.5 million in net proceeds under such shelf registration statement through the sale of all the shares available under the 2017 ATM Offering. On December 28, 2018, we entered into the 2018 Sales Agreement with Stifel, as sales agent, pursuant to which we can sell through Stifel, from time to time, up to \$75.0 million in shares of common stock in an at-the-market offering under the shelf registration statement. As of March 31, 2019, we had \$25.0 million available for future financings under such shelf registration statement.

At March 31, 2019, we had cash and cash equivalents, excluding restricted cash, of approximately \$25.5 million.

## Consolidated Cash Flow Data

| (in millions)   | Three Months Ended March 31, |                 |
|---|------------------------------|-----------------|
|   | 2019                         | 2018            |
| Net cash (used in) provided by  |                              |                 |
| Operating activities  | \$ (24.2)                    | \$ (12.3)       |
| Investing activities  | 29.0                         | 4.3             |
| Financing activities  | (0.3)                        | 4.7             |
| Effect of exchange rate changes on cash and cash equivalents          | (0.1)                        | 0.1             |
| Net increase (decrease) in cash, cash equivalents and restricted cash | <u>\$ 4.4</u>                | <u>\$ (3.2)</u> |

### Operating Activities

For the three months ended March 31, 2019, cash used in operating activities of \$24.2 million consisted of a net loss of \$22.5 million and cash used for working capital of \$8.7 million, offset by non-cash items of \$7.0 million. The non-cash items primarily consisted of \$3.0 million of stock-based compensation expense, \$2.7 million of net amortization, \$1.0 million change in fair value of contingent consideration, \$0.6 million of depreciation, \$0.2 million interest expense on deferred consideration related to the MST acquisition, and \$0.1 million change in fair value of warrant liabilities, offset by \$0.6 million deferred income tax benefit. The decrease in cash from changes in working capital included \$4.6 million increase in inventories, \$2.7 million increase in other current and long term assets, \$2.5 million decrease in accrued expenses, \$0.2 million decrease in deferred revenue, and \$0.1 million increase in accounts receivable, offset by \$0.3 million increase in accounts payable and \$1.1 million increase in other long term liabilities.

### Investing Activities

For the three months ended March 31, 2019, net cash provided by investing activities was \$29.0 million. This amount primarily consists of \$40.0 million in proceeds from maturities of short-term investments, offset by \$10.9 million purchase of short-term investments and \$0.1 million purchases of property and equipment.

### Financing Activities

For the three months ended March 31, 2019, net cash used in financing activities was \$0.3 million. This amount was primarily related to \$0.5 million related to the taxes withheld on RSU awards, offset by \$0.2 million in proceeds from the exercise of stock options and warrants.

## Operating Capital and Capital Expenditure Requirements

We believe that our existing cash and cash equivalents and short-term investments, together with cash received from sales of our products, will be sufficient to meet our anticipated cash needs through at least the next 12 months. We intend to spend substantial amounts on commercial activities, on research and development activities, including product development, regulatory and compliance, clinical studies in support of our future product offerings, the enhancement and protection of our intellectual property, and on contingent consideration payments in connection with the acquisition of the Senhance System. We will need to obtain additional financing to pursue our business strategy, to respond to new competitive pressures or to take advantage of opportunities that may arise. To meet our capital needs, we are considering multiple alternatives, including, but not limited to, additional equity financings, debt financings, strategic collaborations and other funding transactions. There can be no assurance that we will be able to complete any such transaction on acceptable terms or otherwise. If we are unable to obtain the necessary capital, we will need to pursue a plan to license or sell our assets, seek to be acquired by another entity, cease operations and/or seek bankruptcy protection.

Cash and cash equivalents held by our foreign subsidiaries totaled \$2.5 million at March 31, 2019, including restricted cash. We do not intend or currently foresee a need to repatriate cash and cash equivalents held by our foreign subsidiaries. If these funds are needed in the U.S., we believe that the potential U.S. tax impact to repatriate these funds would be immaterial.

### **Hercules Loan Agreement**

On May 23, 2018, the Company and its domestic subsidiaries, as co-borrowers, entered into the Hercules Loan Agreement with several banks and other financial institutions or entities from time to time party to the Hercules Loan Agreement and Hercules Capital, Inc., as administrative agent and Collateral Agent. Effective April 30, 2019, the Hercules Loan Agreement was amended to eliminate the availability of the Tranche III loan facility, add a new Tranche IV loan facility of up to \$20 million, revise certain financial covenants and make other changes. Please see the description of the Hercules Loan Agreement above in this “Management’s Discussion and Analysis of Financial Condition and Results of Operations - Debt Refinancing.”

### **Innovatus Loan Agreement**

On May 10, 2017, the Company and its domestic subsidiaries, as co-borrowers, entered into the Innovatus Loan Agreement with Innovatus Life Sciences Lending Fund I, LP, as lender and collateral agent. Please see the description of the Innovatus Loan Agreement above in “Notes to Consolidated Financial Statements (Unaudited)— Note. 13. Notes Payable.”, and incorporated by reference herein.

In connection with the entry into the Hercules Loan Agreement, the proceeds of which were used to repay the Innovatus Loan, we were obligated to pay final payment and prepayment fees under the Innovatus Loan Agreement. The final payment fee obligation was \$1.0 million and was paid during the year ended December 31, 2018.

### **Off-Balance Sheet Arrangements**

As of March 31, 2019, we did not have any off-balance sheet arrangements.

### **Critical Accounting Policies and Estimates**

The discussion and analysis of our financial condition and results of operations set forth above under the headings “Results of Operations” and “Liquidity and Capital Resources” have been prepared in accordance with U.S. GAAP and should be read in conjunction with our financial statements and notes thereto appearing in this Form 10-Q and in the Fiscal 2018 Form 10-K. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. On an on-going basis, we evaluate our critical accounting policies and estimates, including identifiable intangible assets and goodwill, business acquisitions, in-process research and development, contingent consideration, warrant liabilities, stock-based compensation, inventory, revenue recognition and income taxes. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. A more detailed discussion on the application of these and other accounting policies can be found in Note 2 in the Notes to the Financial Statements in this Form 10-Q. Actual results may differ from these estimates under different assumptions and conditions.

While all accounting policies impact the financial statements, certain policies may be viewed as critical. Critical accounting policies are those that are both most important to the portrayal of financial condition and results of operations and that require management’s most subjective or complex judgments and estimates. Our management believes the policies that fall within this category are the policies on accounting for identifiable intangible assets and goodwill, business acquisitions, contingent consideration, warrants liabilities, stock-based compensation, inventory, revenue recognition and income taxes.

### **Identifiable Intangible Assets and Goodwill**

Identifiable intangible assets consist of purchased patent rights recorded at cost and developed technology acquired as part of a business acquisition recorded at estimated fair value. Intangible assets are amortized over 5 to 10 years. We periodically evaluate identifiable intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable.

Indefinite-lived intangible assets, such as goodwill, are not amortized. We test the carrying amounts of goodwill for recoverability on an annual basis or when events or changes in circumstances indicate evidence of potential impairment exists by performing either a qualitative evaluation or a two-step quantitative test. The qualitative evaluation is an assessment of factors, including industry, market and general economic conditions, market value, and future projections to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount, including goodwill.

As of December 31, 2018, we elected to bypass the qualitative assessment and calculated the fair value of our sole reporting unit based on our market capitalization, which exceeded the carrying amount. Accordingly, no charge for goodwill impairment was required as of December 31, 2018.

A significant amount of judgment is involved in determining if an indicator of goodwill impairment has occurred. Such indicators may include, among others: a significant decline in expected future cash flows; a sustained, significant decline in the Company's stock price and market capitalization; a significant adverse change in legal factors or in the business climate; adverse assessment or action by a regulator; and unanticipated competition. Key assumptions used in the annual goodwill impairment test are highly judgmental and include selection of comparable companies and amount of control premium. Any change in these indicators or key assumptions could have a significant negative impact on the Company's financial condition, impact the goodwill impairment analysis or cause the Company to perform a goodwill impairment analysis more frequently than once per year.

### **Business Acquisitions**

Business acquisitions are accounted for using the acquisition method of accounting in accordance with Accounting Standards Codification (“ASC”) 805, “Business Combinations.” ASC 805 requires, among other things, that assets acquired and liabilities assumed be recognized at their fair values, as determined in accordance with ASC 820, “Fair Value Measurements,” as of the acquisition date. For certain assets and liabilities, book value approximates fair value. In addition, ASC 805 establishes that consideration transferred be measured at the closing date of the acquisition at the then-current market price. Under ASC 805, acquisition-related costs (i.e., advisory, legal, valuation and other professional fees) and certain acquisition-related restructuring charges impacting the target company are expensed in the period in which the costs are incurred. The application of the acquisition method of accounting requires the Company to make estimates and assumptions related to the estimated fair values of net assets acquired.

Significant judgments are used during this process, particularly with respect to intangible assets. Generally, intangible assets are amortized over their estimated useful lives. Goodwill and other indefinite-lived intangibles are not amortized, but are annually assessed for impairment. Therefore, the purchase price allocation to intangible assets and goodwill has a significant impact on future operating results.

### **In-Process Research and Development**

In-process research and development (“IPR&D”) assets represent the fair value assigned to technologies that were acquired, which at the time of acquisition have not reached technological feasibility and have no alternative future use. IPR&D assets are considered to be indefinite-lived until the completion or abandonment of the associated research and development projects. During the period that the IPR&D assets are considered indefinite-lived, they are tested for impairment on an annual basis, or more frequently if the Company becomes aware of any events occurring or changes in circumstances that indicate that the fair value of the IPR&D assets are less than their carrying amounts. If and when development is complete, which generally occurs upon regulatory approval, and the Company is able to commercialize products associated with the IPR&D assets, these assets are then deemed definite-lived and are amortized based on their estimated useful lives at that point in time. If development is terminated or abandoned, the Company may have a full or partial impairment charge related to the IPR&D assets, calculated as the excess of carrying value of the IPR&D assets over fair value.

The IPR&D for the Senhance System was acquired on September 21, 2015. On October 13, 2017, upon regulatory approval and the ability to commercialize the products associated with the IPR&D assets, the assets were deemed definite-lived, reclassified to intellectual property and are now amortized based on their estimated useful lives.

The IPR&D from MST was acquired on October 31, 2018.

### **Contingent Consideration**

Contingent consideration is recorded as a liability and measured at fair value using a discounted cash flow model utilizing significant unobservable inputs including the probability of achieving each of the potential milestones and an estimated discount rate associated with the risks of the expected cash flows attributable to the various milestones. Significant increases or decreases in any of the probabilities of success or changes in expected timelines for achievement of any of these milestones would result in a significantly higher or lower fair value of these milestones, respectively, and commensurate changes to the associated liability. The fair value of the contingent consideration at each reporting date will be updated by reflecting the changes in fair value in our statements of operations and comprehensive (loss) income.

## Warrant Liabilities

For the Series B Warrants, the warrants are recorded as liabilities and are revalued at each reporting period. The change in fair value is recognized in the consolidated statements of operations and comprehensive (loss) income. The selection of the appropriate valuation model and the inputs and assumptions that are required to determine the valuation requires significant judgment and requires management to make estimates and assumptions that affect the reported amount of the related liability and reported amounts of the change in fair value. Actual results could differ from those estimates, and changes in these estimates are recorded when known. As the warrant liability is required to be measured at fair value at each reporting date, it is reasonably possible that these estimates and assumptions could change in the near term.

## Stock-Based Compensation

We recognize as expense, the grant-date fair value of stock options and other stock based compensation issued to employees and non-employee directors over the requisite service periods, which are typically the vesting periods. We use the Black-Scholes-Merton model to estimate the fair value of our stock-based payments. The volatility assumption used in the Black-Scholes-Merton model is based on the calculated historical volatility based on an analysis of reported data for a peer group of companies as well as the Company's historical volatility. The expected term of options granted by us has been determined based upon the simplified method, because we do not have sufficient historical information regarding our options to derive the expected term. Under this approach, the expected term is the mid-point between the weighted average of vesting period and the contractual term. The risk-free interest rate is based on U.S. Treasury rates whose term is consistent with the expected life of the stock options. We have not paid and do not anticipate paying cash dividends on our shares of common stock; therefore, the expected dividend yield is assumed to be zero. We estimate forfeitures based on our historical experience and adjust the estimated forfeiture rate based upon actual experience.

## Inventory

Inventory, which includes material, labor and overhead costs, is stated at the lower of cost, determined on a first-in, first-out basis, or net realizable value. We record reserves, when necessary, to reduce the carrying value of inventory to its net realizable value. At the point of loss recognition, a new, lower-cost basis for that inventory is established, and any subsequent improvements in facts and circumstances do not result in the restoration or increase in that newly established cost basis.

## Revenue Recognition

Our revenue consists of product revenue resulting from the sale of systems, system components, instruments and accessories, and service revenue. We account for a contract with a customer when there is a legally enforceable contract between the Company and the customer, the rights of the parties are identified, the contract has commercial substance, and collectability of the contract consideration is probable. Our revenues are measured based on consideration specified in the contract with each customer, net of any sales incentives and taxes collected from customers that are remitted to government authorities.

Our system sale arrangements generally contain multiple products and services. For these bundled sale arrangements, we account for individual products and services as separate performance obligations if they are distinct, which is if a product or service is separately identifiable from other items in the bundled package, and if a customer can benefit from it on its own or with other resources that are readily available to the customer. Our system sale arrangements include a combination of the following performance obligations: system(s), system components, instruments, accessories, and system service. Our system sale arrangements generally include a five-year period of service. The first year of service is generally free and included in the system sale arrangement and the remaining four years are generally included at a stated service price. We consider the service terms in the arrangements that are legally enforceable to be performance obligations. Other than service, we generally satisfy all of the performance obligations up-front. System components, system accessories, instruments, accessories, and service are also sold on a standalone basis.

We recognize revenues as the performance obligations are satisfied by transferring control of the product or service to a customer. We generally recognize revenue for the performance obligations at the following points in time:

- *System sales.* For systems and system components sold directly to end customers, revenue is recognized when we transfer control to the customer, which is generally at the point when acceptance occurs that indicates customer acknowledgment of delivery or installation, depending on the terms of the arrangement. For systems sold through distributors, with the distributors responsible for installation, revenue is recognized generally at the time of shipment. Our system arrangements generally do not provide a right of return. The systems are generally covered by a one-year warranty. Warranty costs were not material for the periods presented.

- *Instruments and accessories.* Revenue from sales of instruments and accessories is recognized when control is transferred to the customers, which generally occur at the time of shipment, but also occur at the time of delivery depending on the customer arrangement. Accessory products include sterile drapes used to help ensure a sterile field during surgery, vision products such as replacement endoscopes, camera heads, light guides, and other items that facilitate use of the Senhance Surgical System.
- *Service.* Service revenue is recognized ratably over the term of the service period as the customers benefit from the service throughout the service period. Revenue related to services performed on a time-and-materials basis is recognized when performed.

For multiple-element arrangements, revenue is allocated to each performance obligation based on its relative standalone selling price. Standalone selling prices are based on observable prices at which we separately sell the products or services. Due to limited sales to date, standalone selling prices are not yet directly observable. We estimate the standalone selling price using the market assessment approach considering market conditions and entity-specific factors including, but not limited to, features and functionality of the products and services, geographies, type of customer, and market conditions. We regularly review standalone selling prices and update these estimates if necessary. Transaction price allocated to remaining performance obligations relates to amounts allocated to products and services for which the revenue has not yet been recognized. A significant portion of this amount relates to service obligations performed under our system sales contracts that will be invoiced and recognized as revenue in future periods.

We invoice our customers based on the billing schedules in our sales arrangements. Contract assets for the periods presented primarily represent the difference between the revenue that was recognized based on the relative selling price of the related performance obligations and the contractual billing terms in the arrangements. Deferred revenue for the periods presented was primarily related to service obligations, for which the service fees are billed up-front, generally annually. The associated deferred revenue is generally recognized ratably over the service period.

In connection with assets recognized from the costs to obtain a contract with a customer, we have determined that sales incentive programs for our sales team do not meet the requirements to be capitalized as we do not expect to generate future economic benefits from the related revenue from the initial sales transaction.

### **Income Taxes**

We account for income taxes using the asset and liability method, which requires the recognition of deferred tax assets or liabilities for the temporary differences between financial reporting and tax basis of our assets and liabilities, and for tax carryforwards at enacted statutory rates in effect for the years in which the asset or liability is expected to be realized. The effect on deferred taxes of a change in tax rates is recognized in income during the period that includes the enactment date. In addition, valuation allowances are established when necessary to reduce deferred tax assets and liabilities to the amounts expected to be realized.

On December 22, 2017, the Tax Cuts and Jobs Act (“Tax Legislation”) was enacted into law, which reduced the U.S. federal corporate income tax rate to 21% for tax years beginning after December 31, 2017. As a result of the newly enacted tax rate, we adjusted our U.S. deferred tax assets as of December 31, 2017, by applying the new 21% rate, which resulted in a decrease to the deferred tax assets and a corresponding decrease to the valuation allowance of approximately \$36.1 million.

The Tax Legislation also implements a territorial tax system. Under the territorial tax system, in general, our foreign earnings will no longer be subject to tax in the U.S. As part of transition to the territorial tax system the Tax Legislation includes a mandatory deemed repatriation of all undistributed foreign earnings that are subject to a U.S. income tax. We estimate that the deemed repatriation will not result in any additional U.S. income tax liability as we estimate we currently have no undistributed foreign earnings.

In accordance with Staff Accounting Bulletin (“SAB”) No. 118, income tax effects of the Tax Legislation were able to be refined upon obtaining, preparing, or analyzing additional information during a measurement period of one year. During the measurement period provisional amounts were able to be adjusted for the effects, if any, of interpretive guidance issued after December 31, 2017, by U.S. regulatory and standard-setting bodies. No adjustments were made during the measurement period.

### **Recent Accounting Pronouncements**

See “Note 2. Summary of Significant Accounting Policies” of the Notes to Consolidated Financial Statements in the Company’s Fiscal 2018 Form 10-K, as well as the notes to the consolidated financial statements above in this Form 10-Q, for a full description of recent accounting pronouncements including the respective expected dates of adoption and effects on our Consolidated Balance Sheets and Consolidated Statements of Operations and Comprehensive (Loss) Income.



### **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

#### **General**

We have limited exposure to market risks from instruments that may impact the Balance Sheets, Statements of Operations and Comprehensive (Loss) Income, and Statements of Cash Flows. Such exposure is due primarily to changing interest rates and foreign currency exchange rates.

#### **Interest Rates**

The primary objective for our investment activities is to preserve principal while maximizing yields without significantly increasing risk. This is accomplished by investing excess cash in money market funds and Treasury securities. As of March 31, 2019, approximately 100% of the investment portfolio was in cash equivalents and short-term investments with very short-term maturities and therefore not subject to any significant interest rate fluctuations.

#### **Foreign Currency Exchange Rate Risk**

We conduct operations in several different countries, including the United States and throughout Europe and Asia, and portions of our revenues, expenses, assets and liabilities are denominated in U.S. dollars, Euros or other currencies. Since our consolidated financial statements are presented in U.S. dollars, we must translate revenues, income and expenses, as well as assets and liabilities, into U.S. dollars at exchange rates in effect during or at the end of each reporting period. We have not historically hedged our exposure to foreign currency fluctuations. Accordingly, increases or decreases in the value of the U.S. dollar against the Euro and other currencies could materially affect our net operating revenues, operating income and the value of balance sheet items denominated in foreign currencies.

During the three months ended March 31, 2019, 94% of our revenue and approximately 39% of our operating expenses were denominated in currencies other than the U.S. dollar, most notably the Euro. Based on actual results over the past year, a hypothetical 10% increase or decrease in the U.S. dollar against the Euro would have increased or decreased revenue by approximately \$2.4 million and operating expenses by approximately \$4.6 million.

#### **ITEM 4. CONTROLS AND PROCEDURES**

##### **Disclosure Controls and Procedures**

Our management, with the participation of our principal executive officer and principal financial officer, evaluated the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of March 31, 2019. We maintain disclosure controls and procedures that are designed to provide reasonable assurance that information required to be disclosed in our reports filed or submitted 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 our management, including our principal executive officer and principal financial officer, as appropriate, to allow for timely decisions regarding required disclosure. Our management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on such evaluation, our Chief Executive Officer and Chief Financial Officer concluded that, as of March 31, 2019, our disclosure controls and procedures were effective at the reasonable assurance level.

##### **Changes in Internal Controls Over Financial Reporting**

There were no changes in the Company's internal control over financial reporting during the last quarter that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting, except that we implemented internal controls and key system functionality to enable the preparation of financial information upon the adoption of ASC 842, *Leases*.

## PART II. OTHER INFORMATION

### Item 1 Legal Proceedings

None.

### Item 1A Risk Factors.

Reference is made to the Risk Factors included in our Fiscal 2018 Form 10-K.

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

The following table summarizes the Company's purchases of its common stock for the quarter ended March 31, 2019:

| Period                | Issuer Purchases of Equity Securities |                              | Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs | Maximum Number of Shares that May Yet be Purchased Under the Plan or Programs |
|-----------------------|---------------------------------------|------------------------------|--|---|
|                       | Total Number of Shares Purchased (1)  | Average Price Paid per Share |  |   |
| January 1 - 31, 2019  | —                                     | \$ —                         | —  | —   |
| February 1 - 28, 2019 | 194,131                               | 2.57                         | —  | —   |
| March 1 - 31, 2019    | —                                     | —                            | —  | —   |
| Total                 | 194,131                               | \$ 2.57                      | —  | —   |

- (1) These amounts consist of 194,131 shares we acquired from employees associated with the withholding of shares to pay certain withholding taxes upon the vesting of stock-based compensation in accordance with the terms of our equity compensation plan that were previously approved by our stockholders and disclosed in our proxy statements. We purchased these shares at their fair market value, as determined by reference to the closing price of our common stock on the vesting date.

### Item 3 Defaults Upon Senior Securities.

None.

### Item 4 Mine Safety Disclosures.

Not applicable.

### Item 5 Other Information

Effective April 30, 2019, the Hercules Loan and Security Agreement was amended to eliminate the availability of the Tranche III loan facility, add a new Tranche IV loan facility of up to \$20 million, revise certain financial covenants and make other changes. The availability of advances under the Tranche IV loan facility is not milestone-based, rather the Company can request advances in minimum \$5 million increments at any time during the period from July 1, 2019 through December 31, 2020, subject to the funding discretion of the Lender. The monthly trailing six month net revenue financial covenant was amended to be tested quarterly and to change the projected net revenue percentage to be met for the six months ending on the last day of each fiscal quarter. If such quarterly financial covenant is not achieved as of the last day of any fiscal quarter, as tested on the thirtieth day after quarter end, the Company must comply with the waiver conditions in the Hercules Amendment from such test date until the next quarterly test date. The Hercules Amendment was executed by the parties on May 7, 2019. This summary of the principal terms of the Hercules Amendment is not complete. The Hercules Amendment is attached as an Exhibit to this Form 10-Q Quarterly Report and incorporated by reference herein.

**Item 6. EXHIBITS**

| <b>Exhibit No.</b> | <b>Description</b>  |
|--------------------|---|
| 10.1 +             | <a href="#"><u>TransEnterix, Inc. Amended and Restated Incentive Compensation Plan, as amended and restated effective April 24, 2019 (filed as Exhibit 10.1 to our Current Report on Form 8-K, filed with the SEC on April 26, 2019 and incorporated by reference herein).</u></a>  |
| 10.2 *!            | <a href="#"><u>First Amendment to Loan and Security Agreement, dated as of May 7, 2019, and effective as of April 30, 2019, by and among TransEnterix, Inc., TransEnterix Surgical, Inc., TransEnterix International, Inc., SafeStitch, LLC, the several banks party to the Loan and Security Agreement and Hercules Capital, Inc., as administrative agent and collateral agent.</u></a> |
| 31.1 *             | <a href="#"><u>Certification of Chief Executive Officer pursuant to Rule 13a-14(a)/15d-14(a).</u></a>   |
| 31.2 *             | <a href="#"><u>Certification of Chief Financial Officer pursuant to Rule 13a-14(a)/15d-14(a).</u></a>   |
| 32.1 *             | <a href="#"><u>Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u></a>  |
| 32.2 *             | <a href="#"><u>Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u></a>  |
| 101.INS *          | XBRL Instance Document.   |
| 101.SCH *          | XBRL Taxonomy Extension Schema Document.  |
| 101.CAL *          | XBRL Taxonomy Extension Calculation Linkbase Document.  |
| 101.DEF *          | XBRL Taxonomy Extension Definition Linkbase Document.   |
| 101.LAB *          | XBRL Taxonomy Extension Label Linkbase Document.  |
| 101.PRE *          | XBRL Taxonomy Extension Presentation Linkbase Document.   |

+ A management contract, compensatory plan or arrangement required to be separately identified.

\* Filed herewith.

! Portions of this exhibit have been omitted because the information is not material and would likely cause competitive harm if publicly disclosed.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

**TransEnterix, Inc.**

Date: May 9, 2019

By: /s/ Todd M. Pope  
Todd M. Pope  
President and Chief Executive Officer

Date: May 9, 2019

By: /s/ Joseph P. Slattery  
Joseph P. Slattery  
Executive Vice President and Chief Financial Officer

[PORTIONS OF THIS EXHIBIT HAVE BEEN REDACTED, AS INDICATED WITH “\*” AND BRACKETS BECAUSE SUCH INFORMATION IS NOT MATERIAL AND WOULD LIKELY BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.]

### FIRST AMENDMENT TO LOAN AND SECURITY AGREEMENT

**THIS FIRST AMENDMENT TO LOAN AND SECURITY AGREEMENT** (this “Amendment”), dated as of May 7, 2019, to the Loan and Security Agreement, dated as of May 23, 2018 (the “Loan Agreement”), is made by and among TRANSENTERIX, INC., a Delaware corporation (“Parent”), TRANSENTERIX SURGICAL, INC., a Delaware corporation (“TSI”), TRANSENTERIX INTERNATIONAL, INC., a Delaware corporation (“TII”), and SAFESTITCH LLC, a Virginia limited liability company (“SafeStitch” and together with Parent, TSI and TII, individually and collectively, jointly and severally, “Borrowers” or “Borrower”), the several banks and other financial institutions or entities party to the Loan Agreement (collectively referred to as “Lender”), and HERCULES CAPITAL, INC., a Maryland corporation, as administrative agent and collateral agent for itself and Lender (“Agent”).

### RECITALS

- A. The parties hereto wish to amend the Loan Agreement as provided in this Amendment.
- B. The Loan Agreement may be amended pursuant to Section 11.3(b) thereof by the written agreement of Borrowers, Agent and the Required Lenders, each of which is a party to this Amendment.

### AGREEMENT

**NOW, THEREFORE**, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**SECTION 1. EFFECTIVENESS.** Subject to satisfaction of all of the terms and conditions set forth in this Amendment, this Amendment shall be effective as of April 30, 2019.

**SECTION 2. DEFINED TERMS.** Capitalized terms used but not defined in this Amendment (including in the Recitals) shall have the meanings assigned to such terms in the Loan Agreement.

**SECTION 3. AMENDMENTS TO THE LOAN AGREEMENT.** Subject to all of the terms and conditions set forth in this Amendment, Borrowers, Agent and Lender hereby agree to the following amendments to the Loan Agreement.

(A) The definition of “*Facility Charge*” is hereby amended and restated in its entirety to read as follows:

““Facility Charge” means \$400,000.”

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(B) The definition of “*Permitted Indebtedness*” is hereby amended and restated in its entirety to read as follows:

““Permitted Indebtedness” means: (i) Indebtedness of any Loan Party in favor of Lender or Agent arising under this Agreement or any other Loan Document; (ii) Indebtedness existing on the Closing Date which is disclosed in, and subject to the limitations set forth in, Schedule 1A; (iii) Indebtedness of up to [\*\*\*\*\*] outstanding at any time secured by a Lien described in clause (vii) of the defined term “Permitted Liens;” provided that such Indebtedness does not exceed the cost of the property or assets financed with such Indebtedness; (iv) Indebtedness to trade creditors incurred in the ordinary course of business; (v) Indebtedness that also constitutes a Permitted Investment; (vi) Subordinated Indebtedness; (vii) reimbursement obligations in connection with letters of credit and bankers’ guarantees that are secured by Cash and issued on behalf of a Borrower or a Subsidiary thereof and Indebtedness incurred in the ordinary course of business with respect to corporate credit cards and/or merchant services (including any guarantees entered into connection such corporate credit cards and/or merchant services), all in an aggregate amount not to exceed [\*\*\*\*\*] at any time outstanding and reimbursement obligations for letters of credit and/or bankers’ guarantees under this clause (vii) in an amount not to exceed [\*\*\*\*\*] may be secured by Liens described in clause (xiv) of the definition of “Permitted Liens;” (viii) other unsecured Indebtedness in an amount not to exceed [\*\*\*\*\*] at any time outstanding; and (ix) extensions, refinancings and renewals of any items of Permitted Indebtedness; provided that the principal amount is not increased or the terms modified to impose materially more burdensome terms upon the Loan Parties or their Subsidiaries, as the case may be.”

(C) The definition of “*Maximum Term Loan Amount*” is hereby deleted in its entirety.

(D) The definitions of “*Term Loans*” and “*Term Loan*” are hereby amended and restated in their entirety to read as follows:

““Term Loans” means, collectively, the Tranche I Loan, the Tranche II Loan and the Tranche IV Loan, and each of them is referred to individually as a “Term Loan”.”

(E) Section 1.1 of the Loan Agreement is hereby amended by adding the following definitions thereto in the appropriate alphabetical order:

““Tranche IV Facility Charge” means an amount equal to 1.00% of each Advance made under the Tranche IV Loan.”

““Tranche IV Loan” means an additional term loan under this Agreement in an amount up to the Tranche IV Loan Maximum Amount.”

““Tranche IV Loan Availability Period” means the period commencing on July 1, 2019 and ending on December 31, 2020.”

““Tranche IV Loan Conditions” means satisfaction of each of the following: (i) no default or Event of Default shall have occurred and be continuing and (ii) on or before the date on which a Borrower submits an Advance Request under the Tranche IV Loan, Agent’s investment committee shall have approved (in its sole discretion) such Advance under the Tranche IV Loan.”

““Tranche IV Loan Maximum Amount” means an aggregate principal amount of up to \$20,000,000.”

(F) Section 2.1(a)(iii) of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

“(iii) during the Tranche IV Loan Availability Period, and subject to satisfaction of the Tranche IV Loan Conditions, a Borrower may request one or more additional Advances in minimum amounts of at least \$5,000,000 and in an aggregate amount not to exceed the Tranche IV Loan Maximum Amount.”

(G) Section 2.5 of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

“2.5. **End of Term Charge.** On the earliest to occur of (i) the Term Loan Maturity Date, (ii) the date that any Borrower prepays the outstanding Secured Obligations (other than any inchoate indemnity obligations and any other obligations which, by their terms, are to survive the termination of this Agreement) in full, or (iii) the date that the Secured Obligations become due and payable, Borrower shall pay Lender an amount equal to (x) \$2,085,000, plus (y) if a Borrower requests and Lender funds any additional Advances under the Tranche IV Loan, an additional amount equal to the aggregate principal amount of all additional Advances made under the Tranche IV Loan multiplied by 6.95%. Notwithstanding the required payment date of such charge, it shall be deemed earned by Lender as of the Closing Date in the case of the Tranche I Loan, and on each applicable Advance Date for the Tranche II Loan and the Tranche IV Loan, as the case may be.”

(H) Section 4.2 of the Loan Agreement is hereby amended to add a new clause (f) at the end of such Section 4.2 to read in its entirety as follows:

“(f) Parent shall have delivered to Agent payment of the Tranche IV Facility Charge for the applicable Advance to be made under the Tranche IV Loan and shall have reimbursed Agent and Lender for any expenses reimbursable pursuant to this Agreement, which amounts may be deducted from the applicable Advance.”

(I) Section 7.1(h) of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

“(h) promptly after their approval by the Board of Directors, and in any event, within 60 days following the end of Parent’s fiscal year, an operating plan and budget for the fiscal year immediately following such fiscal year end as approved by the Board of Directors (each, an “Operating Plan and Budget”), as well as financial and business projections, operating plans and other financial information reasonably requested by Agent; and”



(J) Section 7.21 of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

**“7.21 Financial Covenant.**

(a) Subject to Section 7.21(c), beginning with the quarter ending March 31, 2019 and for each fiscal quarter thereafter, Net Revenue for the trailing six-month period ending on each such date shall equal at least [\*\*]% of the Projected Net Revenue for such six-month period (the foregoing, the “Financial Covenant”).

(b) Parent shall provide Agent with such information as Agent may reasonably require in connection with its testing of the Financial Covenant, including the Financial Statements required to be delivered to Agent pursuant to Section 7.1. Compliance with the Financial Covenant shall be tested on the date that is 30 days following the end of each applicable fiscal quarter (each, a “Test Date”). Compliance with the Waiver Condition (as defined below) shall be tested on a continuous basis during any applicable period of determination.

(c) Parent and the other Borrowers shall not be required to comply with the Financial Covenant as of any Test Date if the Parent achieves and maintains compliance with the Waiver Condition at all times during the period from the immediately preceding Test Date to such Test Date. If the Financial Covenant has not been satisfied as of a Test Date, Borrowers shall be required to maintain compliance at all times with the Waiver Condition during the period commencing on such Test Date through and including the next Test Date. If the Financial Covenant has been satisfied as of a Test Date, then Borrowers shall not be required to comply with the Waiver Condition for such Test Date. A failure to satisfy the Waiver Condition in accordance with foregoing when not in compliance with the Financial Covenant shall constitute a breach of Borrowers’ obligations under this Section 7.21.

(d) For purposes of this Section 7.21, “Projected Net Revenue” means:

(i) for the 2019 fiscal year, the Net Revenue projected by Parent for the applicable periods as set forth in the Operating Plan and Budget for the 2019 fiscal year as delivered to and accepted by Agent on or before May 7, 2019; and

(ii) for each fiscal year following the 2019 fiscal year commencing with the fiscal year ending December 31, 2020, the Net Revenue projected by Parent for the applicable periods as set forth in the Operating Plan and Budget for the applicable fiscal year as delivered to and accepted in writing by Agent in its reasonable discretion.

Parent shall deliver to Agent an Operating Plan and Budget for the each fiscal year commencing with the fiscal year ending December 31, 2020, and that is acceptable to Agent, no later than 60 days following the end of Parent’s prior fiscal year, and Parent’s failure to comply with the foregoing shall constitute a breach of Borrowers’ obligations under this Section 7.21.

- (e) For purposes of this Section 7.21, “Waiver Condition” means:
- (i) for any period of determination during the 2019 fiscal year, satisfaction of either of the following conditions at all times during such period of determination:
- (A) Borrowers shall maintain unrestricted Cash in one or more accounts subject to Account Control Agreements in an amount equal to at least [\*\*\*]% of the principal amount of the Term Loans outstanding; or
- (B) (x) Borrowers shall maintain unrestricted Cash in one or more accounts subject to Account Control Agreements in an amount at least equal to [\*\*\*]% of the principal amount of the Term Loans outstanding, and (y) Parent’s market capitalization (determined based on Parent’s public closing price per share (as quoted by Bloomberg L.P. or such other inter-dealer quotation system reasonably acceptable to Agent) multiplied by the fully diluted shares outstanding) shall be at least [\$\*\*\*\*\*] (calculated based on a 10-trading day volume weighted average price), provided that if Parent’s market capitalization falls below [\$\*\*\*\*\*], the Waiver Condition shall be deemed satisfied upon Borrowers depositing within five Business Days after Parent’s market capitalization falls below [\$\*\*\*\*\*] additional unrestricted Cash into one or more accounts subject to Account Control Agreements in an amount to satisfy the conditions set forth in Section 7.21(e)(i)(A); and
- (ii) for any period of determination during each fiscal year following the 2019 fiscal year, commencing with the fiscal year ending December 31, 2020, satisfaction of either of the following conditions at all times during such period of determination:
- (A) Borrowers shall maintain unrestricted Cash in one or more accounts subject to Account Control Agreements in an amount equal to at least [\*\*\*]% of the principal amount of the Term Loans outstanding; or
- (B) (x) Borrowers shall maintain unrestricted Cash in one or more accounts subject to Account Control Agreements in an amount equal to at least [\*\*\*]% of the principal amount of the Term Loans outstanding, and (y) Parent’s market capitalization (determined

based on Parent's public closing price per share (as quoted by Bloomberg L.P. or such other inter-dealer quotation system reasonably acceptable to Agent) multiplied by the fully diluted shares outstanding) shall be at least [\*\*\*\*\*] (calculated based on a 10-trading day volume weighted average price) at all times, provided that if Parent's market capitalization falls below [\*\*\*\*\*], the Waiver Condition shall be deemed satisfied upon Borrowers depositing within five Business Days after Parent's market capitalization falls below [\*\*\*\*\*] additional unrestricted Cash into one or more accounts subject to Account Control Agreements in an amount to satisfy the conditions set forth in Section 7.21(e)(ii)(A)."

(K) Exhibit F to the Loan Agreement is hereby amended and restated in its entirety as attached to this Amendment.

(L) Schedule 1.1 to the Loan Agreement is hereby amended and restated in its entirety as attached to this Amendment.

**SECTION 4. TERMINATION OF THE TRANCHE III LOAN.** Upon the effectiveness of this Amendment: (i) Borrowers' rights under the Loan Agreement to draw all or any portion of the Tranche III Loan shall terminate in all respects; (ii) Lender shall have no obligation to fund all or any portion of Tranche III Loan following the date hereof, regardless of any Borrower's achievement of any milestones or other conditions related thereto as provided under the Loan Agreement; (iii) the total amount of Advances for all purposes under the Loan Agreement shall equal only the Advances under the Tranche I Loan, the Tranche II Loan and, as applicable, the Tranche IV Loan; and (iv) all references in the Loan Agreement to an Advance or Advances shall mean only such Advances under the Tranche I Loan, the Tranche II Loan and, as applicable, the Tranche IV Loan.

**SECTION 5. CONDITIONS TO THIS AMENDMENT.** The effectiveness of this Amendment is subject to Borrowers' satisfaction of each of the following conditions:

(A) Parent shall have paid to Agent an amendment fee equal to \$30,000; and

(B) Parent shall deliver to Agent Financial Statements for the period ending March 31, 2019 evidencing compliance with Section 7.21 of the Loan Agreement, as amended by this Amendment (i.e. satisfaction of either the financial covenant set forth in such section or the Waiver Condition).

**SECTION 6. EFFECT ON LOAN DOCUMENTS; RELEASE.**

(A) Except as specifically amended by this Amendment, all Loan Documents shall continue to be in full force and effect and are ratified and confirmed in all respects. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of any Lender or Agent under any of the Loan Documents, and it shall not constitute a waiver of any provision of the Loan Documents. Any reference to the Loan Agreement in any other Loan Document shall be a reference to the Loan Agreement as amended by this Amendment.

(B) In consideration of the agreements of Agent and each Lender contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Borrower, on behalf of itself and its successors, assigns, and other legal representatives, hereby fully, absolutely, unconditionally and irrevocably releases, remises and forever discharges Agent and each Lender, and its successors and assigns, and its present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents and other representatives (Agent, Lenders and all such other persons being hereinafter referred to collectively as the “Releasees” and individually as a “Releasee”), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which such Borrower, or any of its successors, assigns, or other legal representatives may now or hereafter own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the day and date of this Amendment, for or on account of, or in relation to, or in any way in connection with the Loan Agreement, or any of the other Loan Documents or transactions thereunder or related thereto (collectively, the “Released Claims”). Each Borrower understands, acknowledges and agrees that the release set forth above (the “Release”) may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release. Each Borrower agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered shall affect in any manner the final, absolute and unconditional nature of the release set forth above. Without limiting the generality of the foregoing, each Borrower hereby waives the provisions of any statute or doctrine that prevents a general release from extending to claims unknown by the releasing party, including, without limitation, California Civil Code Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Each Borrower acknowledges that the agreements in this Section are intended to be in full satisfaction of all or any alleged injuries or damages arising in connection with the Released Claims. Each Borrower acknowledges that the Release constitutes a material inducement to Agent and Lender to enter into this Amendment and that Agent and Lender would not have done so but for Agent’s and Lender’s expectation that the Release is valid and enforceable in all events.

**SECTION 7. REPRESENTATIONS AND WARRANTIES.** Each Borrower represents and warrants, on behalf of itself and each of the other Loan Parties, to Agent and Lender as follows:

(A) Such Borrower's execution, delivery and performance of this Amendment (i) have been duly authorized by all necessary corporate action of such Borrower; (ii) will not result in the creation or imposition of any Lien upon the Collateral (other than Permitted Liens and the Liens created by the Loan Documents, including the Intellectual Property Security Agreement); (iii) do not violate any material provisions of such Borrower's Certificate of Incorporation, bylaws, certificate of formation or operating agreement, as applicable, or any law, regulation, order, injunction, judgment, decree or writ to which such Borrower is subject; and (iv) except as described on Schedule 5.3 to the Loan Agreement, does not violate any material contract or agreement or require the consent or approval of any other Person which has not already been obtained.

(B) This Amendment has been duly executed and delivered on such Borrower's behalf by a duly authorized officer thereof, and constitutes a legal, valid and binding obligation of such Borrower, enforceable in accordance with its terms, subject to bankruptcy, reorganization, insolvency, moratorium and other similar laws affecting the enforcement of creditors' rights generally and the exercise of judicial discretion in accordance with general principles of equity.

(C) All of Borrowers' representations and warranties contained in the Loan Agreement and all schedules and exhibits thereto are true in all material respects as of the date of this Amendment as though made on the date of this Amendment, except to the extent that such representations and warranties relate expressly to an earlier date.

(D) Each Borrower is in compliance as of the date of this Amendment with all of the terms and provisions set forth in each Loan Document, and there shall be no fact or condition that could (or could, with the passage of time, the giving of notice, or both) constitute an Event of Default as of the date of this Amendment.

**SECTION 8. GOVERNING LAW.** This Amendment shall be governed by, and construed in accordance with, the law of the State of New York.

**SECTION 9. COUNTERPARTS.** This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by facsimile, .pdf or other electronic imaging means of an executed counterpart of a signature page to this Amendment shall be effective as delivery of an original executed counterpart of this Amendment. Agent may also require that any such documents and signatures delivered by facsimile, .pdf or other electronic imaging means be confirmed by a manually signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature delivered by facsimile, .pdf or other electronic imaging means.

*[Remainder of page intentionally blank]*

**IN WITNESS WHEREOF**, the parties hereto have caused this First Amendment to Loan and Security Agreement to be duly executed and delivered by their respective proper and duly authorized officers as of the day and year first above written.

**BORROWERS:**

**TRANSENERIX, INC.**

By: /s/ Joseph P. Slattery  
Name: Joseph P. Slattery  
Title: EVP, CFO

**TRANSENERIX SURGICAL, INC.**

By: /s/ Joseph P. Slattery  
Name: Joseph P. Slattery  
Title: EVP, CFO

**TRANSENERIX INTERNATIONAL, INC.**

By: /s/ Joseph P. Slattery  
Name: Joseph P. Slattery  
Title: EVP, CFO

**SAFESTITCH LLC**

**By: TransEnterix, Inc., its sole member**

By: /s/ Joseph P. Slattery  
Name: Joseph P. Slattery  
Title: EVP, CFO

**AGENT:**

**HERCULES CAPITAL, INC.**

By: /s/ Jennifer Choe  
Name: Jennifer Choe  
Title: Assistant General Counsel

**LENDERS:**

**HERCULES CAPITAL, INC.**

By: /s/ Jennifer Choe  
Name: Jennifer Choe  
Title: Assistant General Counsel

**HERCULES CAPITAL FUNDING TRUST 2018-1**

By: /s/ Jennifer Choe  
Name: Jennifer Choe  
Title: Assistant General Counsel

**HERCULES CAPITAL FUNDING TRUST 2019-1**

By: /s/ Jennifer Choe  
Name: Jennifer Choe  
Title: Assistant General Counsel

OMITTED SCHEDULES AND EXHIBITS

Exhibit F -  
Schedule 1.1 -

Form of Compliance Certificate  
Commitments



**CERTIFICATIONS OF CHIEF EXECUTIVE OFFICER  
PURSUANT TO RULE 13A-14(A)/15D-14(A)**

I, Todd M. Pope, certify that:

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

May 9, 2019

By:           /s/ Todd M. Pope          

Todd M. Pope  
President and Chief Executive Officer (Principal  
Executive Officer)

**CERTIFICATION OF CHIEF FINANCIAL OFFICER  
PURSUANT TO RULE 13A-14(A)/15D-14(A)**

I, Joseph P. Slattery, certify that:

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

May 9, 2019

By: /s/ Joseph P. Slattery

Joseph P. Slattery  
Executive Vice President and Chief Financial Officer  
(principal financial officer and principal accounting officer)

CERTIFICATION OF CHIEF EXECUTIVE OFFICER  
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Todd M. Pope, hereby certify pursuant to Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and 18 U.S.C. Section 1350, that the Quarterly Report on Form 10-Q of TransEnterix, Inc. (the "Company") for the quarterly period ended March 31, 2019 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Todd M. Pope  
Todd M. Pope  
President and Chief Executive Officer  
(Principal Executive Officer)

May 9, 2019

The certification set forth above is being furnished as an Exhibit solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and is not being filed as part of the Report or as a separate disclosure document of TransEnterix, Inc. or the certifying officers.

CERTIFICATION OF CHIEF FINANCIAL OFFICER  
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Joseph P. Slattery, hereby certify pursuant to Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and 18 U.S.C. Section 1350, that the Quarterly Report on Form 10-Q of TransEnterix, Inc. (the "Company") for the quarterly period ended March 31, 2019 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Joseph P. Slattery  
Joseph P. Slattery  
Executive Vice President and Chief Financial Officer  
(principal financial officer and principal accounting officer)

May 9, 2019

The certification set forth above is being furnished as an Exhibit solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and is not being filed as part of the Report or as a separate disclosure document of TransEnterix, Inc. or the certifying officers.