



7327 Oak Ridge Highway  
Knoxville, TN 37931

phone 866/594-5999  
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Dear Provectus Stockholders:

You are cordially invited to attend the 2017 Annual Meeting of Stockholders of Provectus Biopharmaceuticals, Inc. (“Provectus” or the “Company”) to be held on Tuesday, May 30, 2017, at 4:00 p.m., Eastern Time, at the offices of PYA, PC, located at 2220 Sutherland Avenue, Knoxville, Tennessee 37919.

We are pleased to present you with our 2017 Proxy Statement. Our 2017 Annual Meeting will be our first annual meeting since we closed on our first tranche of up to \$20 Million in financing and replaced a majority of our board members, which steps contribute to a new and fundamental strategy for the Company: change of control of the board of directors, complete a tranche-based capital formation program, and fortify the management team to support the clinical development program as well as business and corporate development opportunities.

At the 2017 Annual Meeting, stockholders will vote on the matters set forth in the 2017 Proxy Statement and the accompanying notice of the annual meeting. Your board of directors has recommended four highly qualified and experienced nominees for election to the board of directors at the 2017 Annual Meeting. Highlights of the detailed information included in the proxy statement can be found in the section entitled “Questions and Answers About the 2017 Annual Meeting of Stockholders” starting on page 3, and detailed information regarding the director candidates can be found under “Proposal 1 – Election of Directors” starting on page 29. Additionally, enclosed with the Proxy Statement is a proxy card and postage-paid return envelope. Proxy cards are being solicited on behalf of the Provectus board of directors.

Whether or not you will attend the meeting, we hope that your shares are represented and voted. In advance of the meeting on May 30, 2017, please cast your vote through the Internet, by telephone or by mail as described in your proxy card. Instructions on how to vote are found in the section entitled “Questions and Answers About the 2017 Annual Meeting of Stockholders – How Do I Vote?” starting on page 4.

For more information and up-to-date postings, please go to our website, [www.Provectusbio.com/annualmeeting](http://www.Provectusbio.com/annualmeeting). If you have any questions or need assistance voting, please contact Morrow Sodali, our proxy solicitor assisting us in connection with the 2017 Annual Meeting. Stockholders may call toll free at (877) 787-9239. Banks and brokers may call collect at (203) 658-9400.

Thank you for being a stockholder of Provectus.

Sincerely,

Timothy C. Scott  
President

#### YOUR VOTE IS IMPORTANT

**TO ENSURE THAT YOU ARE REPRESENTED AT THE 2017 ANNUAL MEETING OF STOCKHOLDERS, PLEASE COMPLETE, SIGN, DATE AND PROMPTLY RETURN THE ENCLOSED PROXY IN THE ACCOMPANYING ENVELOPE, REGARDLESS OF WHETHER YOU PLAN TO ATTEND THE 2017 ANNUAL MEETING OF STOCKHOLDERS IN PERSON. NO ADDITIONAL POSTAGE IS NECESSARY IF THE PROXY IS MAILED IN THE UNITED STATES. YOU MAY REVOKE YOUR PROXY AT ANY TIME BEFORE IT IS VOTED AT THE MEETING.**





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**NOTICE OF 2017 ANNUAL MEETING OF STOCKHOLDERS  
TO BE HELD ON TUESDAY, MAY 30, 2017**

To the Stockholders of Provectus Biopharmaceuticals, Inc.:

NOTICE IS HEREBY GIVEN that we will hold the 2017 annual meeting of stockholders of Provectus Biopharmaceuticals, Inc. on Tuesday, May 30, 2017 at 4:00 p.m. Eastern Time, at the offices of PYA, PC, located at 2220 Sutherland Avenue, Knoxville, Tennessee 37919. The 2017 annual meeting is being held for the following purposes:

1. to elect four directors to serve on our board of directors for a one-year term;
2. to conduct an advisory vote to approve the compensation of our named executive officers;
3. to approve, on an advisory basis, the frequency of the advisory vote on compensation of our named executive officers;
4. to ratify the selection of Marcum LLP as our independent registered public accounting firm for 2017;
5. to approve an amendment of the Certificate of Incorporation, as amended, to increase the number of authorized shares of preferred stock; and
6. to approve an amendment of the Provectus Equity Compensation Plan to allow for the grant of restricted stock awards.

Stockholders also will transact any other business that properly comes before the 2017 annual meeting of stockholders.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE “FOR” EACH OF THE FOUR NOMINEES TO OUR BOARD OF DIRECTORS IDENTIFIED IN THE PROXY STATEMENT, “FOR” PROPOSALS 2, 4, 5 AND 6, AND “EVERY 1 YEAR” WITH RESPECT TO PROPOSAL 3.**

Only stockholders of record as of the close of business on April 18, 2017 will be entitled to notice of and to vote at the 2017 annual meeting of stockholders and any adjournment thereof.

**Important Notice Regarding the Availability of Proxy Materials for the 2017 Annual Meeting of Stockholders to Be Held on Tuesday, May 30, 2017. This Proxy Statement and our Annual Report on Form 10-K for the year ended December 31, 2016 are available at:**  
[http://www.provectusbio.com/annual\\_reports.html](http://www.provectusbio.com/annual_reports.html).

By order of our board of directors,

Timothy C. Scott  
President

April 27, 2017  
Knoxville, Tennessee

## TABLE OF CONTENTS

QUESTIONS AND ANSWERS ABOUT THE 2017 ANNUAL MEETING OF STOCKHOLDERS .....	3
STOCK OWNERSHIP .....	7
CORPORATE GOVERNANCE .....	10
COMPENSATION DISCUSSION AND ANALYSIS .....	13
COMPENSATION COMMITTEE REPORT ON EXECUTIVE COMPENSATION .....	18
SUMMARY COMPENSATION TABLE .....	19
GRANTS OF PLAN-BASED AWARDS .....	20
OUTSTANDING EQUITY AWARDS AT 2016 FISCAL YEAR-END .....	21
OPTION EXERCISES AND STOCK VESTED .....	21
EQUITY COMPENSATION PLAN INFORMATION .....	22
DIRECTOR COMPENSATION .....	22
COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION .....	24
CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS .....	24
PROPOSAL 1 ELECTION OF DIRECTORS .....	29
PROPOSAL 2 ADVISORY VOTE TO APPROVE THE COMPENSATION OF OUR NAMED EXECUTIVE OFFICERS .....	31
PROPOSAL 3 ADVISORY VOTE ON FREQUENCY OF ADVISORY VOTE ON EXECUTIVE COMPENSATION .....	33
PROPOSAL 4 RATIFICATION OF SELECTION OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM .....	34
AUDIT COMMITTEE REPORT .....	36
PROPOSAL 5 AMENDMENT OF THE CERTIFICATE OF INCORPORATION TO INCREASE AUTHORIZED SHARES OF PREFERRED STOCK .....	37
PROPOSAL 6 AMENDMENT OF THE PROPECTUS EQUITY COMPENSATION PLAN .....	40
OTHER INFORMATION CONCERNING MANAGEMENT .....	42
OTHER MATTERS .....	47
ADDITIONAL INFORMATION .....	47



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**PROXY STATEMENT FOR  
2017 ANNUAL MEETING OF STOCKHOLDERS  
TO BE HELD ON MAY 30, 2017**

We are delivering these proxy materials to solicit proxies on behalf of the board of directors of Provectus Biopharmaceuticals, Inc., for the annual meeting of stockholders to be held on Tuesday, May 30, 2017, beginning at 4:00 p.m. Eastern Time, at the offices of PYA, PC, located at 2220 Sutherland Avenue, Knoxville, Tennessee 37919.

We are mailing this Proxy Statement, together with a form of proxy and our annual report on Form 10-K for the year ended December 31, 2016, on or about April 27, 2017.

We will refer to Provectus Biopharmaceuticals, Inc. and its subsidiaries throughout this Proxy Statement as “we,” “us,” the “Company” or “Provectus.”

At the annual meeting, our stockholders will vote on proposals:

1. to elect four directors to serve on our board of directors for a one-year term;
2. to conduct an advisory vote to approve the compensation of our named executive officers;
3. to approve, on an advisory basis, the frequency of the advisory vote on compensation of our named executive officers;
4. to ratify the selection of Marcum LLP as our independent registered public accounting firm for 2017;
5. to approve an amendment of the Certificate of Incorporation, as amended, to increase the number of authorized shares of preferred stock; and
6. to approve an amendment of the Provectus Equity Compensation Plan to allow for the grant of restricted stock awards.

The proposals are set forth in the accompanying Notice of 2017 Annual Meeting of Stockholders and are described in more detail in this Proxy Statement. Stockholders also will transact any other business, not known or determined at the time of this proxy solicitation that properly comes before the 2017 annual meeting of stockholders, although our board of directors knows of no such other business to be presented.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE “FOR” EACH OF THE FOUR NOMINEES TO OUR BOARD OF DIRECTORS IDENTIFIED IN THE PROXY STATEMENT, “FOR” PROPOSALS 2, 4, 5 AND 6, AND “EVERY 1 YEAR” WITH RESPECT TO PROPOSAL 3.**

When you submit your proxy by executing and returning the enclosed proxy card, you will authorize the proxy holders – Eric Wachter and Timothy C. Scott – to vote as proxy all your shares of common stock and otherwise to act on your behalf at the 2017 annual meeting of stockholders and any adjournment thereof, in accordance with the instructions set forth therein. These persons also will have discretionary authority to vote your shares on any other business that properly comes before the meeting. They also may vote your shares to adjourn the meeting and will be authorized to vote your shares at any adjournment of the meeting.

**YOUR VOTE IS IMPORTANT**

**TO ENSURE THAT YOU ARE REPRESENTED AT THE 2017 ANNUAL MEETING OF STOCKHOLDERS, PLEASE COMPLETE, SIGN, DATE AND PROMPTLY RETURN THE ENCLOSED PROXY IN THE ACCOMPANYING ENVELOPE, REGARDLESS OF WHETHER YOU PLAN TO ATTEND THE 2017 ANNUAL MEETING OF STOCKHOLDERS IN PERSON. NO ADDITIONAL POSTAGE IS NECESSARY IF THE PROXY IS MAILED IN THE UNITED STATES. YOU MAY REVOKE YOUR PROXY AT ANY TIME BEFORE IT IS VOTED AT THE MEETING.**

## QUESTIONS AND ANSWERS ABOUT THE 2017 ANNUAL MEETING OF STOCKHOLDERS

### What is the purpose of the 2017 annual meeting?

At the 2017 annual meeting, stockholders will act upon the following matters:

1. to elect four directors to serve on our board of directors for a one-year term;
2. to conduct an advisory vote to approve the compensation of our named executive officers;
3. to approve, on an advisory basis, the frequency of the advisory vote on compensation of our named executive officers;
4. to ratify the selection of Marcum LLP as our independent registered public accounting firm for 2017;
5. to approve an amendment of the Certificate of Incorporation, as amended, to increase the number of authorized shares of preferred stock; and
6. to approve an amendment of the Provectus Equity Compensation Plan to allow for the grant of restricted stock awards.

Stockholders also will transact any other business, not known or determined at the time of this proxy solicitation, that properly comes before the 2017 annual meeting of stockholders, although our board of directors knows of no such other business to be presented.

### Who is entitled to vote?

Only stockholders of record at the close of business on April 18, 2017, the record date for the 2017 annual meeting, are entitled to receive notice of the 2017 annual meeting and to vote the shares of common stock that they held on that date at the 2017 annual meeting. Each outstanding share of common stock entitles its holder to cast one vote on each matter to be voted on at the 2017 annual meeting.

### Am I entitled to vote if my shares are held in “street name?”

If you are the beneficial owner of shares held in “street name” by a brokerage firm, bank, or other nominee, such entity, as the record holder of the shares, is required to vote the shares in accordance with your instructions. If you do not give instructions to your nominee, it will nevertheless be entitled to vote your shares on “discretionary” items but will not be permitted to do so on “non-discretionary” items. Proposals 1, 2, 3, 5 and 6 are non-discretionary items for which a nominee will not have discretion to vote in the absence of voting instructions from you. However, Proposal 4 is a discretionary item on which your nominee will be entitled to vote your shares even in the absence of instructions from you.

### What constitutes a quorum?

The presence at the 2017 annual meeting, in person or by proxy, of the holders of a majority of the shares of common stock outstanding on the record date will constitute a quorum.

As of April 18, 2017, there were 370,354,643 shares of common stock outstanding; thus, a quorum will be 185,177,322 shares of common stock outstanding. Shares held by stockholders present at the 2017 annual meeting in person or represented by proxy who elect to abstain from voting nonetheless will be included in the calculation of the number of shares considered present at the 2017 annual meeting.

### What happens if a quorum is not present at the 2017 annual meeting?

If a quorum is not present at the scheduled time of the meeting, the holders of a majority of the shares of common stock present in person or represented by proxy at the meeting may adjourn the meeting to another

place, date, or time until a quorum is present. The place, date, and time of the adjourned meeting will be announced when the adjournment is taken, and no other notice will be given unless the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting.

### **How do I vote?**

**YOUR VOTE IS IMPORTANT!** Please cast your vote using the enclosed proxy card and play a part in the future of Provectus.

- Shareholders of record, who hold shares registered in their own name, can vote by signing, dating and returning the enclosed proxy card in the postage-paid return envelope, or by telephone or via the internet, following the easy instructions shown on the enclosed proxy card.
- Beneficial owners, who own shares through a bank, brokerage firm or other financial institution, can vote by returning the voting instruction form, or by following the instructions for voting via telephone or the internet, as provided by the bank, broker or other organization. If you own shares in different accounts or in more than one name, you may receive different voting instructions for each type of ownership. Please vote all your shares.
- If you are a shareholder of record or a beneficial owner who has a legal proxy to vote the shares, you may choose to vote in person at the annual meeting. Even if you plan to attend our annual meeting in person, please cast your vote as soon as possible by using the enclosed proxy card.

If you have any questions or need assistance voting, please contact Morrow Sodali, our proxy solicitor assisting us in connection with the 2017 Annual Meeting. Shareholders may call toll free at (877) 787-9239. Banks and brokers may call collect at (203) 658-9400.

### **Can I change my vote after I return my proxy card?**

Yes. Even after you have submitted your proxy card, you may change your vote at any time before the proxy is exercised by filing with the Secretary either a notice of revocation or a duly executed proxy card bearing a later date. If you are a “street name” stockholder, you must contact your broker or other nominee and follow its instructions if you wish to change your vote. The powers of the proxy holders will be suspended if you attend the 2017 annual meeting in person and so request, although your attendance at the 2017 annual meeting will not by itself revoke a previously granted proxy.

### **What are the Board’s recommendations?**

Our board of directors unanimously recommends that you vote:

1. **“FOR”** the election of four directors to serve on our board of directors for a one-year term;
2. **“FOR”** the advisory vote to approve the compensation of our named executive officers;
3. **“EVERY 1 YEAR”** with respect to the advisory vote to approve the frequency of the advisory vote on compensation of our named executive officers;
4. **“FOR”** ratification of the selection of Marcum LLP as our independent registered public accounting firm for 2017;
5. **“FOR”** the amendment of the Certificate of Incorporation, as amended, to increase the number of authorized shares of preferred stock; and
6. **“FOR”** the amendment of the Provectus Equity Compensation Plan to allow for the grant of restricted stock awards.



**What happens if I do not specify how my shares are to be voted?**

If you submit a proxy but do not indicate any voting instructions, your shares will be voted “FOR” each of the nominees for director identified in Proposal 1, “FOR” Proposals 2,4, 5 and 6 and “EVERY 1 YEAR” with respect to Proposal 3.

**Will any other business be conducted at the 2017 annual meeting?**

As of the date hereof, our board of directors knows of no business that will be presented at the annual meeting other than the proposals described in this Proxy Statement. If any other business is properly brought before the 2017 annual meeting, the proxy holders will vote your shares in accordance with their best judgment.

**What vote is required to approve each item?**

1. The director nominees will be elected to serve on our board of directors for a term of one year if they receive a plurality of the votes cast on the shares of common stock present in person or represented by proxy at the 2017 annual meeting and entitled to vote on the subject matter. This means that the director nominees will be elected if they receive more votes than any other person at the 2017 annual meeting. If you vote to “Withhold Authority” with respect to the election of one or more director nominees, your shares of common stock will not be voted with respect to the person or persons indicated, although they will be counted for the purpose of determining whether there is a quorum at the meeting.
2. The advisory vote to approve the compensation of our named executive officers will be approved if a majority of the shares of common stock present in person or represented by proxy at the 2017 annual meeting and entitled to vote on the subject matter are voted in favor of the proposal.
3. The vote to approve, on an advisory basis, the frequency of the advisory vote on executive compensation will be approved if a majority of the shares of common stock present in person or represented by proxy at the 2017 annual meeting and entitled to vote on the subject matter are voted in favor of the proposal.
4. The selection of Marcum LLP as our independent registered public accounting firm for 2017 will be ratified if a majority of the shares of common stock present in person or represented by proxy at the meeting and entitled to vote on the subject matter are voted in favor of the proposal.
5. The vote to approve an amendment of the Certificate of Incorporation to increase the number of authorized shares of preferred stock will be approved if a majority of the outstanding shares of common stock entitled to vote are voted in favor of the proposal.
6. The vote to approve an amendment of the Provectus Equity Compensation Plan to allow for the grant of restricted stock awards will be approved if a majority of the shares of common stock present in person or represented by proxy at the 2017 annual meeting and entitled to vote on the subject matter are voted in favor of the proposal.

**How will Abstentions and Broker Non-Votes be Treated?**

You do not have the option of abstaining from voting on Proposal 1, but you may abstain from voting on Proposals 2 through 6. With respect to Proposal 1, because the directors are elected by a plurality vote, an abstention will have no effect on the outcome of the vote and, therefore, is not offered as a voting option on the proposal. In the case of an abstention on Proposals 2 through 6, your shares of common stock would be included in the number of shares of common stock considered present at the meeting for the purpose of determining whether there is a quorum. Because your shares of common stock would be voted but not in favor of Proposals 2 through 6, your abstention would have the same effect as a negative vote in determining the outcome of the vote on the proposal.

Broker non-votes occur when a brokerage firm, bank, or other nominee does not vote shares that it holds in “street name” on behalf of the beneficial owner because the beneficial owner has not provided voting instructions to the nominee with respect to a non-discretionary item. Proposals 1, 2, 3, 5 and 6 are non-discretionary items for which a nominee will not have discretion to vote in the absence of voting instructions from you. However, Proposal 4 is a discretionary item on which your nominee will be entitled to vote your shares of common stock even in the absence of instructions from you. Accordingly, it is possible for there to be broker non-votes with respect to Proposals 1, 2, 3, 5 and 6, but there will not be broker non-votes with regard to Proposal 4. In the case of a broker non-vote, your shares of common stock would be included in the number of shares of common stock considered present at the meeting for the purpose of determining whether there is a quorum. A broker non-vote, being shares of common stock not entitled to vote, would not have any effect on the outcome of the vote on Proposals 1, 2, 3, 5 and 6.

## STOCK OWNERSHIP

### Directors, Executive Officers, and Other Stockholders

The following table provides information about the beneficial ownership of common stock as of April 14, 2017, unless otherwise indicated, for each of our directors, each of our executive officers named in the “Summary Compensation Table” of this Proxy Statement and all of our directors and executive officers as a group. We do not believe any person beneficially owns more than 5% of our outstanding common stock. Each outstanding share of common stock entitles its holder to cast one vote on each matter to be voted on at the 2017 annual meeting.

<u>Name and Address<sup>(1)</sup></u>	<u>Amount and Nature of Beneficial Ownership<sup>(2)</sup></u>	<u>Percentage of Class<sup>(3)</sup></u>
<b>Directors and Executive Officers:</b>		
Dominic Rodrigues	1,320,380 <sup>(4)</sup>	*
Bruce Horowitz	2,442,243 <sup>(5)</sup>	*
Jan Koe	1,486,300 <sup>(6)</sup>	*
Eric A. Wachter, Ph.D.	7,915,964 <sup>(7)</sup>	2.1%
Timothy C. Scott, Ph.D.	3,880,966 <sup>(8)</sup>	1.0%
John R. Glass	—	*
H. Craig Dees, Ph.D. <sup>(9)</sup>	1,497,859 <sup>(10)</sup>	*
Peter R. Culpepper <sup>(11)</sup>	1,974,998 <sup>(12)</sup>	*
All directors and executive officers as a group (6 persons <sup>**</sup> )	17,045,323 <sup>(13)</sup>	4.5%

\* Less than 1% of the outstanding shares of common stock.

\*\* Excluding Dr. Dees and Mr. Culpepper, who are no longer executive officers.

- (1) Drs. Scott and Wachter and Messrs. Glass, Rodrigues, Horowitz and Koe are officers or directors of Provectus Biopharmaceuticals, Inc., whose business address is 7327 Oak Ridge Highway, Suite A, Knoxville, TN 37931.
- (2) Shares of common stock that a person has the right to acquire within 60 days of April 14, 2017 are deemed outstanding for computing the percentage ownership of the person having the right to acquire such shares, but are not deemed outstanding for computing the percentage ownership of any other person. Except as indicated by a note, each stockholder listed in the table has sole voting and investment power as to the shares owned by that person.
- (3) As of April 14, 2017, there were 370,354,643 shares of common stock issued and outstanding.
- (4) Mr. Rodrigues’ beneficial ownership includes 509,089 shares of common stock held jointly with his spouse, 112,700 shares of common stock owned by his spouse, 23,700 shares of common stock held as custodian for his children, 242,000 shares of common stock owned by CAL Enterprises LLC, an entity that Mr. Rodrigues controls, 961 shares of common stock issuable upon the exercise of warrants held by CAL Enterprises LLC, 30 shares of common stock issuable upon the exercise of warrants held by Mr. Rodrigues, and 431,400 shares of common stock owned through a retirement plan. Does not include any shares issuable upon conversion of outstanding principal and accrued but unpaid interest under that certain Secured Convertible Promissory Note, dated April 3, 2017, by the Company in favor of CAL Enterprises LLC in the maximum principal amount of up to \$2.5 million of which \$500,000 is currently outstanding as of the date hereof. Mr. Rodrigues disclaims beneficial ownership of the securities held by CAL Enterprises LLC except to the extent of his pecuniary interest therein.
- (5) Mr. Horowitz’s beneficial ownership includes 50,000 shares of common stock owned by his spouse, 1,000,000 shares of common stock issuable upon the exercise of warrants, and 325,000 shares of common stock owned through a retirement plan.
- (6) Mr. Koe’s beneficial ownership includes 200,000 shares of common stock subject to options which are exercisable within 60 days, 150,000 shares of common stock held by Vekoe Partners LLC, of which Mr. Koe is an affiliate, and 350,000 shares of common stock issuable upon the exercise of warrants.

Mr. Koe disclaims beneficial ownership of the shares held by Vekoe Partners LLC except to the extent of his pecuniary interest therein.

- (7) Dr. Wachter's beneficial ownership includes 4,867 shares of common stock held by the Eric A. Wachter 1998 Charitable Remainder Unitrust, 930,248 shares of common stock held in a 401(k) plan, 600,000 shares of common stock subject to options which are exercisable within 60 days and 666,666 shares of common stock issuable upon the exercise of warrants. Does not include any shares issuable upon conversion of outstanding principal and accrued but unpaid interest under that certain Amended and Restated Secured Convertible Promissory Note, dated April 3, 2017, by the Company in favor of Mr. Wachter in the outstanding principal amount of \$2.5 million. Dr. Wachter pledged 1,000,000 shares of his common stock pursuant to that certain Stock Pledge Agreement, dated October 3, 2014, between Dr. Wachter and the Company in order to secure Dr. Wachter's obligations under that certain Stipulated Settlement Agreement and Mutual Release between the Company and Dr. Wachter, dated June 6, 2014.
- (8) Dr. Scott's beneficial ownership includes 503,125 shares of common stock held in a 401(k) plan, and 1,800,000 shares of common stock subject to options which are exercisable within 60 days. Dr. Scott pledged 1,000,000 shares of his common stock pursuant to that certain Stock Pledge Agreement, dated October 3, 2014, between Dr. Scott and the Company in order to secure Dr. Scott's obligations under that certain Stipulated Settlement Agreement and Mutual Release between the Company and Dr. Scott, dated June 6, 2014.
- (9) Dr. Dees resigned as Chief Executive Officer and Chairman of the board of directors effective February 27, 2016.
- (10) Does not include any shares of common stock subject to options which are exercisable within 60 days, as all of Dr. Dees' options have expired as a result of Dr. Dees' resignation. Dr. Dees pledged 1,000,000 shares of his common stock pursuant to that certain Stock Pledge Agreement, dated October 3, 2014, between Dr. Dees and the Company in order to secure Dr. Dees' obligations under that certain Stipulated Settlement Agreement and Mutual Release between the Company and Dr. Dees, dated June 6, 2014 ("Dees Settlement Agreement"). As a result of Dr. Dees' resignation from the Company, he was required to pay the Company under the Dees Settlement Agreement the sum of Two Million Two Hundred Sixty Seven Thousand and Seven Hundred Fifty Dollars (\$2,267,750) immediately. Dr. Dees' failure to pay this sum resulted in a breach of the Dees Settlement Agreement, and on March 10, 2016, the Company sent a demand letter for Dr. Dees to cure such default within thirty (30) days. Dr. Dees failed to pay these amounts outstanding under the Settlement Agreement (including interest due thereon) within the thirty (30) days cure period. Accordingly, the Company intends to exercise all rights and remedies available to it under the Dees Settlement Agreement, Stock Pledge Agreement and at law and equity, including but not limited to foreclosure of its first-priority security interest in the 1,000,000 shares of common stock granted as collateral pursuant to the Stock Pledge Agreement. On May 5, 2016, the Company filed a lawsuit in the United States District Court for the Eastern District of Tennessee at Knoxville (the "Court") against Dr. Dees and his wife, based upon breach of the Dees Settlement Agreement seeking, among other relief, appointment of a receiver for the 1,000,000 shares of common stock Dr. Dees granted as collateral pursuant to the Stock Pledge Agreement. The Court entered a default judgment against Dr. Dees on July 20, 2016; however, the Company cannot predict when these shares will be recovered by the Company. In September 2016 the Court issued a Temporary Restraining Order upon the Company's application for same upon notice that Dr. Dees was attempting to sell his shares of the Company's common stock. The Temporary Restraining Order was converted to a Preliminary Injunction on September 16, 2016, which order will remain in place until the trial of the underlying lawsuit absent further court order or agreement of the parties, and the Company is presently engaged in discovery regarding damages.
- (11) Mr. Culpepper was terminated "for cause" from all positions he held with the Company and each of its subsidiaries, including Interim Chief Executive Officer and Chief Operating Officer, effective December 28, 2016.
- (12) Mr. Culpepper's beneficial ownership includes 296,503 shares of common stock held in a 401(k) plan and 266,666 shares of common stock issuable upon the exercise of warrants. Does not include 1,500,000 shares of common stock subject to options which have expired as a result of Mr. Culpepper's termination "for cause".

Mr. Culpepper pledged 1,000,000 shares of his common stock pursuant to that certain Stock Pledge Agreement, dated October 3, 2014, between Mr. Culpepper and the Company in order to secure Mr. Culpepper's obligations under that certain Stipulated Settlement Agreement and Mutual Release between the Company and Mr. Culpepper, dated June 6, 2014 (the "Culpepper Settlement Agreement"). As a result of Mr. Culpepper's termination from the Company "for cause", he was required to pay the Company under the Culpepper Settlement Agreement the sum of Two Million Fifty One Thousand and Eighty Three Dollars (\$2,051,083) immediately. The Company sent Mr. Culpepper a notice of default in January 2017 for the total amount he owes the Company and intends to resolve these claims pursuant to the alternative dispute resolution provision of the Amended and Restated Executive Employment Agreement entered into by Peter R. Culpepper and the Company on April 28, 2014 (the "Culpepper Employment Agreement"). Mr. Culpepper disputes that he was terminated "for cause" under the Culpepper Employment Agreement and thus disputes that his stock options expired and that he owes the full \$2,051,083 repayment amount under the Culpepper Settlement Agreement. Mr. Culpepper has demanded this issue be resolved by mediation in accordance with the Culpepper Employment Agreement. The Company is in the process of responding to Mr. Culpepper's demand, and the mediation has been scheduled for June 28, 2017. Concurrently, the Company is seeking from Mr. Culpepper immediate payment of amounts due under the Culpepper Settlement Agreement as noted above. In addition, the Company is seeking to recover from Mr. Culpepper the entire \$294,255 in unsubstantiated travel expense reimbursements and advances, as well as all attorney's fees and auditors'/experts' fees incurred by the Company in connection with the examination of his travel expense reimbursements.

- (13) Includes 4,617,657 shares of common stock subject to options and warrants which are exercisable within 60 days.

#### **Section 16(a) Beneficial Ownership Reporting Compliance**

The federal securities laws require our directors and executive officers and persons who beneficially own more than 10% of a registered class of our equity securities to file with the Securities and Exchange Commission (the "SEC") initial reports of ownership and reports of changes in ownership of our securities. Based solely on our review of the copies of these forms received by us or representations from reporting persons, we believe that SEC beneficial ownership reporting requirements for 2016 were met.

## CORPORATE GOVERNANCE

### Board Leadership Structure

Our board of directors consists of four members, Eric Wachter, Jan E. Koe, Bruce Horowitz and Dominic Rodrigues. Mr. Rodrigues serves as chairman of our board of directors effective April 3, 2017. H. Craig Dees served as our Chief Executive Officer and Chairman of the board of directors until his resignation effective February 27, 2016. Peter Culpepper served as our Interim Chief Executive Officer until he was terminated “for cause” by the board of directors on December 27, 2016. Alfred E. Smith, IV served as Chairman of the board from February 27, 2016, and as a board member, until he resigned on April 3, 2017. Kelly M. McMasters, M.D. served as a director until he resigned on April 3, 2017. Two members of our board of directors, Messrs. Koe and Rodrigues, are considered independent under the independence standards of the NYSE MKT.

We believe that it was appropriate to separate the positions of Chairman and Chief Executive Officer following Dr. Dees’ resignation because this new leadership structure enhances the ability of our board of directors to ensure that the appropriate level of independent oversight is applied to all management decisions and avoids any potential conflicts of interest. The Company also does not currently have a Chief Executive Officer. Our entire board of directors is responsible for our risk oversight function due to the fact that we have only two employees, one of whom is a member of our board of directors, and an independent contractor serving as our Interim Chief Financial Officer.

### Board of Directors and Committees

Our board of directors met 17 times and took action by unanimous written consent three times during 2016. Each incumbent director attended more than 75% of the total number of meetings of our board of directors and its committees on which he served during 2016. Members of our board of directors are encouraged to attend the 2017 annual meeting of stockholders. Directors Scott, Smith, Wachter and Koe attended the 2016 annual meeting of stockholders in person.

We have three standing committees: audit committee; compensation committee; and corporate governance and nominating committee (the “nominating committee”). A majority of the members of the audit committee, compensation committee and nominating committee are independent pursuant to the NYSE MKT listing standards and applicable SEC rules. We believe that all members of our board of directors have been and remain qualified to serve on the committees of our board of directors and have the experience and knowledge to perform the duties required of the committees.

### Audit Committee

The audit committee currently consists of Bruce Horowitz, Jan E. Koe and Dominic Rodrigues. Messrs. Koe and Rodrigues are independent directors under the listing standards of the NYSE MKT. Dominic Rodrigues is the chairman of the audit committee. Our board of directors has determined that Dominic Rodrigues qualifies as an “audit committee financial expert,” as defined under the rules of the SEC. The audit committee met 12 times during 2016.

The audit committee’s responsibilities include:

- Hire one or more independent registered public accountants to audit our books, records and financial statements and to review our systems of accounting (including our systems of internal control);
- Discuss with the independent registered public accounting firm the results of the annual audit and quarterly reviews;
- Conduct periodic independent reviews of the systems of accounting (including systems of internal control);

- Make reports periodically to our board of directors with respect to its findings; and
- Undertake other activities described more fully in the section called “Audit Committee Report.”

Our audit committee charter is posted on our website under the “Investors” subpage, at <http://provectusbio.com/media/docs/AuditCommitteeCharter.pdf>, and is also available in print to any stockholder or other interested party who makes such a request to the Company’s Secretary. The information on our website, however, is not a part of this Proxy Statement.

### **Compensation Committee**

The compensation committee currently consists of Bruce Horowitz, Jan E. Koe and Dominic Rodrigues. Messrs. Koe and Rodrigues are independent directors under the listing standards of the NYSE MKT. Jan E. Koe is the chairman of the compensation committee. The compensation committee met three times during 2016 and acted by written consent one time.

The compensation committee’s responsibilities include:

- Review and approve annually the corporate goals and objectives relevant to the chief executive officer, and at least annually, evaluate the chief executive officer’s performance in light of these goals and objectives and set the chief executive officer’s compensation, including salary, bonus and incentive compensation, based on this evaluation;
- Determine, or recommend to our board for determination, the compensation and benefits our executive officers other than the chief executive officer;
- Review our compensation and benefits plans;
- Review and recommend to the entire board of directors the compensation for members of our board of directors; and
- Other matters that our board of directors specifically delegates to the compensation committee from time to time.

The responsibilities of the compensation committee are described in more detail in the section called “Compensation Discussion and Analysis.”

Our compensation committee charter is posted on our website under the “Investors” subpage, at <http://provectusbio.com/media/docs/CompensationCommitteeCharter.pdf>, and is also available in print to any stockholder or other interested party who makes such a request to the Company’s Secretary. The information on our website, however, is not a part of this Proxy Statement.

### **Nominating Committee and Director Nominations**

The nominating committee currently consists of Bruce Horowitz, Jan E. Koe and Dominic Rodrigues. Messrs. Koe and Rodrigues are independent directors under the listing standards of the NYSE MKT. Bruce Horowitz is the chairman of the nominating committee. The nominating committee did not hold any meetings during 2016, but acted by written consent one time.

Our Board adopted a written charter for our nominating committee, which is available to our stockholders and other interested parties on our website under the “Investors” subpage, at <http://provectusbio.com/media/docs/NominatingCommitteeCharter.pdf>, and is also available in print to any stockholder or other interested party who makes such a request to the Company’s Secretary. The information on our website, however, is not a part of this Proxy Statement.

The nominating committee has the authority and responsibility to:

- Assist our board of directors by identifying and approving the nomination of individuals qualified to serve as members of our board of directors;
- Review the qualifications and performance of incumbent directors to determine whether to recommend them as nominees for reelection;
- Develop and recommend to our board of directors corporate governance policies for the Company;
- Review periodically the management succession plan of the Company and formally recommend to our board of directors as needed, successors to departing executive officers if a vacancy occurs; and
- Evaluate the performance of our board of directors.

Our nominating committee has no set procedures or policy on the selection of nominees or evaluation of stockholder recommendations and will consider these issues on a case-by-case basis. Our nominating committee will consider stockholder recommendations for director nominees that are properly received in accordance with our bylaws and the applicable rules and regulations of the SEC. Our nominating committee screens all potential candidates in the same manner. Our nominating committee's review will typically be based on all information provided with respect to the potential candidate. Our nominating committee has not established specific minimum qualifications that must be met by a nominee for a position on our board of directors or specific qualities and skills for a director. Our nominating committee may consider the diversity of qualities and skills of a nominee, but our nominating committee has no formal policy in this regard. For more information, please see the section below entitled "ADDITIONAL INFORMATION."

Stockholders who wish to contact the members of our board of directors may do so by sending an e-mail addressed to them at [info@provectusbio.com](mailto:info@provectusbio.com).

#### **Board Observer**

On April 12, 2017, the board of directors unanimously agreed to appoint Ed Pershing as an observer of the board of directors and all committees of the board of directors (serving all exclusively in an advisory capacity only). On April 19, 2017, Mr. Pershing accepted the invitation to serve as an observer.

#### **Strategic Advisory Board**

On April 20, 2017, we announced the reestablishment of the Company's Strategic Advisory Board (the "SAB"). The SAB will comprise business, medical, clinical, and biopharmaceutical industry experience elements. The initial SAB appointees are John W. 'Jack' Lacey III, M.D., and Ed Pershing, who will serve as SAB Chairman. Mr. Pershing has co-founded multiple professional services firms specializing in healthcare related matters. His healthcare experience and expertise includes turnaround/performance improvement initiatives, long-range planning studies, development of numerous hospital and medical office projects, restructuring of healthcare organizations, liaison between boards of directors and management in crafting corporate visions and strategies, mergers, acquisitions, divestitures, and leasing arrangements. Mr. Pershing also has served as an expert witness on healthcare industry matters and in several Certificate of Need appeals, and represented healthcare organizations before regulatory agencies. He graduated from the University of Tennessee with a Bachelor of Science in Accounting. Mr. Pershing is a Certified Professional Accountant.

Dr. Lacey was the former Chief Medical Officer and Senior Vice President of University of Tennessee Medical Center ("UTMC"), a 600+ bed academic medical center based in Knoxville, since 1998, and retired from UTMC in 2016. He also operated his own internal medicine practice for 32 years. Dr. Lacey graduated from the University of Tennessee with a Bachelor's degree in nuclear engineering and the University of Tennessee (Memphis) with a Doctor of Medicine degree. He was with UTMC for 40 of the academic medical center and hospital's 60+ years. Dr. Lacey also helped create Knoxville Area Project Access, a partnership with the Knoxville Academy of Medicine and providers to give primary and specialty health services to the uninsured and medically underserved, and was the inaugural chair of the Governor's Health and Wellness Task Force, which helped raise Tennessee's national health ranking.



## COMPENSATION DISCUSSION AND ANALYSIS

The primary objectives of our compensation committee with respect to executive compensation are to attract, retain, and motivate the best possible executive talent. Our focus is to tie short- and long-term cash and equity incentives to achievement of measurable corporate and individual performance objectives, and to align our executive officers' incentives with stockholder value creation. To achieve these objectives, our compensation committee has maintained, and continues to develop, compensation plans that tie a substantial portion of executives' overall compensation to our scientific, medical and clinical milestones. Our compensation committee has reviewed these compensation practices and now also takes into consideration commercial and operational performance in addition to our scientific, medical and clinical milestones in determining the amount and types of compensation awarded to our executive officers.

Our compensation committee has a pay-for-performance compensation philosophy, which is intended to bring base salaries and total executive compensation in line to ensure the competitiveness of the compensation packages we provide to our named executive officers. We work within the framework of this pay-for-performance philosophy to determine each component of an executive officer's initial compensation package based on numerous factors, including:

- The individual's particular background and circumstances, including training and prior relevant work experience;
- The individual's role with us and the compensation paid to similar persons in the companies represented in the compensation data that we review;
- Performance goals and other expectations for the position; and
- Uniqueness of industry skills.

Our compensation committee, which is composed solely of independent directors, makes all compensation decisions for our executive officers.

### **2016 Comprehensive Review of Executive Compensation Practices**

Beginning in 2015, the compensation committee retained Pearl Meyer, a nationally recognized compensation consulting firm, to assist the compensation committee in assessing the market competitiveness of our compensation program and establishing executive officer and director compensation for 2016, and to:

- Compile market data and business performance statistics of comparable companies for compensation committee comparison and review;
- Assist in establishing a peer group of companies;
- Summarize trends and developments affecting executive compensation;
- Provide guidance on compensation structure as well as levels of compensation for our executive officers and directors;
- Review equity compensation grant practices and other topics as requested by the compensation committee; and
- Report directly to the compensation committee and participate in compensation committee meetings as requested by the compensation committee.

Pearl Meyer submitted its initial report to the Company in December 2015, and the report was delivered to the compensation committee in March 2016.

At our annual meeting of stockholders held on June 16, 2016, stockholders holding 57% of the shares voting on a non-binding advisory vote on the compensation of the Company's named executive officers ("Say on Pay") voted to approve the compensation paid to our named executive officers, while stockholders holding 39% of the shares voting on Say on Pay voted "against" such compensation. Although Say on Pay passed by a majority of the shares that were voted at the annual meeting, the compensation committee determined it was significant that (i) stockholders holding less than 60% of the voting shares voted "for" Say on Pay and (ii) stockholders holding more than 35% of the voting shares voted "against" Say on Pay.

As a result of the results of the Say on Pay vote, the compensation committee immediately initiated and directed a comprehensive review of the Company's compensation policies and practices. As part of its comprehensive review, the compensation committee further studied the data provided by Pearl Meyer and met in executive session with Pearl Meyer to further discuss Pearl Meyer's reports. The compensation committee also conducted additional analysis on executive compensation for the peer companies identified by Pearl Meyer. Members of the compensation committee also reached out to certain of the Company's stockholders representing approximately 10% of the Company's outstanding shares of common stock to better understand the reasons for the relatively low percentage of "for" votes on Say on Pay and held direct conversations with each of these stockholders. The primary focus of these stockholder meetings was to seek specific feedback on executive compensation and review potential changes to existing compensation practices. The feedback received from these participating stockholders was incorporated into the compensation committee discussion and determination of the changes to executive compensation. We will continue to consider stockholder feedback in the future with respect to both our stockholder advisory votes on executive compensation and informal feedback we receive from our stockholders. The specific actions taken by our compensation committee based upon its review are discussed below.

### **Compensation Components**

The components of our compensation package for our executive officers are as follows:

#### **Base Salary & Employment Agreements**

We pay salaries to provide fixed compensation to our named executive officers for their daily responsibilities.

On April 28, 2014, we entered into amended and restated executive employment agreements with each of H. Craig Dees, Ph.D., Peter R. Culpepper, Timothy C. Scott, Ph.D., and Eric A. Wachter, Ph.D., to serve as our Chief Executive Officer, Chief Financial Officer and Chief Operating Officer, President, and Chief Technology Officer, respectively. Each agreement provides that such named executive officer will be employed for a five-year term with automatic one-year renewals unless previously terminated pursuant to the terms of the agreement or either party gives notice that the term will not be extended. Each named executive officer's initial base salary is \$500,000 per year and any increases to such base salary shall be determined by the compensation committee in its sole discretion. Named executive officers are also eligible for annual bonuses and annual equity incentive awards as determined by the compensation committee in its sole discretion. Named executive officers are entitled to reimbursement for all reasonable out-of-pocket expenses incurred during their performance of services under the agreements. Our named executive officers will be entitled to the payments upon termination of their employment, with or without a change of control, as described under the heading "Potential Payments upon Termination or Change in Control" below. The employment agreements for our named executive officers also include non-competition, non-solicitation and confidentiality obligations.

Under each executive officer's employment agreement, the compensation committee has the sole discretion to increase each executive's base salary. The compensation committee opted not to increase the base salary for any of our executive officers in 2016.

Effective February 27, 2016, Dr. Dees resigned from his position as Chief Executive Officer and Chairman of the board of directors and his employment agreement was terminated. On December 27, 2016, Mr. Culpepper's employment with us, and his employment agreement, were terminated "for cause" by the board of directors.

During 2016, the Company entered into an independent contractor agreement, as amended (the "Glass Agreement") with John R. Glass, pursuant to which Mr. Glass serves as interim chief financial officer of the Company and performs duties and services consistent with the position of chief financial officer for a public company. The Glass Agreement provides that, in consideration for such services, Mr. Glass will be paid \$125 per hour. Mr. Glass is also entitled to a \$20,000 cash bonus payment on each of January 1, April 1, June 1, and September 1, 2017 (or the first business day thereafter) so long as he is serving as interim chief financial officer on such date. The Glass Agreement further provides that, following the termination of the Glass Agreement by the Company as a result of the hiring of an additional permanent chief financial officer and in the event Mr. Glass does not receive all of the cash bonus payments under the Glass Agreement, Mr. Glass shall be entitled to a severance payment of \$20,000 subject to certain terms and conditions set forth in the Glass Agreement. Under the Glass Agreement, the Company will provide Mr. Glass with a per diem for meals on the days when he is rendering services and will reimburse Mr. Glass for all reasonable and necessary expenses relating to his provision of services under the Glass Agreement. The Company also agreed to indemnify Mr. Glass for claims made against him based upon the performance of his services and to have him named as an additional named insured under the Company's general liability and directors and officers liability insurance policies. The Glass Agreement remains in effect on a month to month basis unless terminated by either party upon 60 days prior written notice.

#### **Bonus Awards**

We did not award any cash bonuses to our named executive officers in 2014, but the compensation committee awarded cash bonuses in 2015 to Drs. Dees, Scott and Wachter and Mr. Culpepper in the amount of \$200,000 each, based on the Company's achievement of such pre-established scientific, medical and clinical milestones. The compensation committee decided to defer any decision with respect to cash bonuses for our executive officers for 2015 performance until a later date and ultimately did not award cash bonuses to our named executive officers in 2016.

*Eligibility for 2016 cash bonuses.* In 2016, the compensation committee determined that, in order to be eligible for a cash bonus for 2016, executive officers must achieve certain corporate and individual goals. Corporate goals were proposed by management in March 2016 and approved by the compensation committee. Individual goals were submitted by each executive officer by July 1, 2016 and approved by the compensation committee. The compensation committee monitors progress toward achievement of those goals, and retains the discretion to determine whether each executive officer has achieved his applicable individual performance goals. The compensation committee determined that cash bonuses will not exceed 20% of such executive officer's base salary and may be awarded upon achievement of both corporate and individual performance goals; provided, however, the compensation committee may award a cash bonus of as much as 33% of an executive officer's base salary, but only in the event of superior performance.

Pursuant to the Glass Agreement, Mr. Glass is entitled to a \$20,000 cash bonus payment on each of January 1, April 1, June 1, and September 1, 2017 (or the first business day thereafter) so long as he is serving as interim chief financial officer on such date. The Company has paid Mr. Glass his bonus due on January 1, 2017 and has accrued but not yet paid to Mr. Glass the \$20,000 bonus due on April 1, 2017.

#### **401(k) Profit Sharing Plan and Other Benefits**

Our named executive officers participate in our 401(k) Profit Sharing Plan, which was formed in 2010. Contributions to the 401(k) Profit Sharing Plan by us are discretionary. Through 2016, we contributed the maximum amount permitted to be contributed by us with regard to each executive officer pursuant to our 401(k)

plan, regardless of the amount, if any, contributed by the respective executive officers. Contributions by us in 2014, 2015 and 2016 totaled approximately \$320,000, \$212,000 and \$159,000, respectively. As part of the compensation committee's review of executive compensation, beginning in 2017, we will match the 401(k) contributions of each executive officer participating in our 401(k) plan in an amount equal to such executive officer's own contribution, up to an amount equal to half of the maximum amount we are permitted to contribute.

We maintain broad-based benefits that are provided to all employees, including health insurance, life and disability insurance, dental insurance, and a vacation policy that requires a minimum amount of vacation time used but provides for cash compensation in lieu of vacation taken if appropriate.

In the past, our executive officers received a total of eight weeks of vacation annually, and an executive officer could receive a cash payment for accrued but unused vacation up to a maximum of six weeks of unused vacation per year. As part of the compensation committee's review of executive compensation, the compensation committee elected to (i) reduce the amount of vacation executive officers are entitled to receive to a total of six weeks per year, effective immediately, and (ii) limit the cash payment for accrued but unused vacation to two weeks per year beginning in 2017, which will be paid on the last business day of each fiscal year. Any accrued but unused vacation days in excess of two weeks will be forfeited. Because the compensation committee approved these changes at the midpoint of our fiscal year in 2016, the compensation committee approved the payment of up to a maximum of four weeks of accrued but unused vacation for 2016.

### **Long-Term Incentives**

We believe that long-term performance is achieved through an ownership culture that encourages long-term participation by our executive officers in equity-based awards. Our Amended and Restated 2002 Stock Plan, or our 2002 Stock Plan, allowed the grant to employees of stock options, restricted stock, and other equity-based awards. The 2002 Stock Plan expired by its terms on April 22, 2012. At the 2012 annual meeting of stockholders, our stockholders approved the 2012 Stock Plan, which replaced the 2002 Stock Plan. The 2012 Stock Plan allowed the grant to employees of stock options, restricted stock, and other equity-based awards. At the 2014 annual meeting of stockholders, our stockholders approved the Provectus Biopharmaceuticals, Inc. 2014 Equity Compensation Plan (the "2014 Equity Compensation Plan"). The 2014 Equity Compensation Plan authorizes our board of directors to grant the following types of equity-based awards: (i) options that qualify as "incentive stock options" within the meaning of Section 422 of the Internal Revenue Code of 1986 (the "Code"), and (ii) options that do not qualify as incentive stock options under the Code ("non-qualified stock options," and collectively with incentive stock options, "options"). We are authorized to grant options under the 2014 Equity Compensation Plan for up to 20,000,000 shares of our common stock. If any options granted under the 2014 Equity Compensation Plan are forfeited or terminated for any reason, the shares of common stock that were subject to the options will again be available for future distribution under the 2014 Equity Compensation Plan. We no longer issue any awards under the 2012 Stock Plan.

Our practice is to make periodic annual stock option awards as part of our overall performance management program, when approved by our compensation committee. Our compensation committee believes that stock options provide management with a strong link to long-term corporate performance and the creation of stockholder value. We intend that the periodic annual aggregate cumulative total of these awards will not exceed 10% of our fully diluted outstanding common stock. As is the case when the amounts of base salary and equity awards are determined, a review of all components of the executive officer's compensation is conducted when determining annual option awards to ensure that an executive officer's total compensation conforms to our overall philosophy and objectives. A pool of options is reserved for our non-employee directors to receive their annual grant and the pool of options is only increased for employees when approved by our stockholders.

The compensation committee deferred any decision on equity compensation to our executive officers for 2015 performance until a later date and ultimately did not award any equity compensation in 2016. Beginning in 2016, any stock options that may be awarded to our executive officers will be a mix of 50% stock options with

time-based vesting and 50% performance-based stock options, which performance-based stock options will be awarded only after the achievement of both the corporate performance goals and the executive officer's respective individual performance goals described above.

### **Potential Payments Upon Termination or Change in Control**

Each of the employment agreements for our named executive officers generally provides that in the event that the executive's employment is terminated (i) voluntarily by the executive without Good Reason (as defined in the respective employment agreement) or (ii) by the Company "for cause" (as defined in the respective employment agreement), the Company shall pay the executive's compensation only through the last day of the employment period and, except as may otherwise be expressly provided, the Company shall have no further obligation to the executive. In the event that the executive's employment is terminated by the Company other than "for cause" (including death or disability), or if the executive voluntarily resigns for Good Reason, for so long as the executive is not in breach of his continuing obligations under the non-competition, non-solicitation and confidentiality restrictions contained in such executive's employment agreement, the Company shall continue to pay the executive (or his estate) an amount equal to his base salary in effect immediately prior to the termination of his employment for a period of 24 months, to be paid in accordance with the Company's regular payroll practices through the end of the fiscal year in which termination occurs and then in one lump sum payable to the executive in the first month of the fiscal year following termination, as well as any prorated bonuses based upon the bonuses paid with regard to the prior fiscal year, plus benefits on a substantially equivalent basis to those which would have been provided to the executive in accordance with the terms of such benefit plans.

The following table shows the base salary compensation the named executive officers who were serving as executive officers at the end of the fiscal year would have received under their employment agreements had a change in control occurred as of December 31, 2016 and had the named executive officers been terminated within six months following such change in control.

<u>Name</u>	<u>Amount</u>
Timothy C. Scott, Ph.D.	1,000,000
Eric A. Wachter, Ph.D.	1,000,000

Under the terms of our 2014 Equity Compensation Plan, prior to the occurrence of a change in control (as defined in the 2014 Equity Compensation Plan), and unless otherwise determined by our board of directors, any stock options outstanding on the date such change in control is determined to have occurred that are not yet exercisable and vested on such date shall become fully exercisable and vested. As of December 31, 2016, none of our named executive officers had outstanding unvested stock options.

Following the termination of the Glass Agreement by the Company as a result of the hiring of an additional permanent chief financial officer and in the event Mr. Glass does not receive all of the cash bonus payments under the Glass Agreement, Mr. Glass shall be entitled to a severance payment of \$20,000 subject to certain terms and conditions set forth in the Glass Agreement.

### **Severance Payments to Executives Departing in 2016**

Mr. Dees resigned as our Chief Executive Officer and Chairman of the board of directors effective February 27, 2016. Dr. Dees was owed no severance payments as a result of his resignation. Under the terms of the Amended and Restated Executive Employment Agreement entered into by Dr. Dees and the Company on April 28, 2014 (the "Dees Agreement"), Dr. Dees' employment terminated due to his resignation without "Good Reason" (as that term is defined in the Dees Agreement). Under section 6 of the Dees Agreement, a resignation by Dr. Dees without "Good Reason" terminates any payments that would otherwise be due to Dr. Dees as of the last day of his employment.

Mr. Culpepper was terminated for “Cause” as our Interim Chief Executive Officer and Chief Operating Officer of the Company effective December 27, 2016, pursuant to the Culpepper Employment Agreement. Mr. Culpepper was owed no severance payments because he was terminated by us for “Cause” (as that term is defined in the Culpepper Employment Agreement). Under section 6 of the Culpepper Employment Agreement, a termination by us of Mr. Culpepper for “Cause” terminates any payments that would otherwise be due to Mr. Culpepper as of the last day of his employment. Mr. Culpepper disputes that he was terminated “for cause”. Mediation with Mr. Culpepper is scheduled for June 28, 2017.

### **Compensation-Related Risk Assessment**

SEC regulations require that we assess our compensation policies and practices and determine whether those policies and practices are reasonably likely to result in a material adverse effect upon Provectus. Based upon a review by our board of directors and management of our compensation policies and practices, we have determined that our current compensation policies and practices are not reasonably likely to result in a material adverse effect on us. In reaching this conclusion, we considered the multiple performance metrics in the annual incentive plan, combination of short-term and longer-term incentives, using periodic stockholder approved equity grants, stock ownership guidelines for executive officers, clawback of compensation in event of restatement of financial statements in cases of fraud, and a further review of our compensation policies in the future to maximize stockholder value.

### **Conclusion**

Our compensation policies are designed to retain and motivate our employees; namely, our executive officers, and to ultimately reward them for outstanding individual and corporate performance.

## **COMPENSATION COMMITTEE REPORT ON EXECUTIVE COMPENSATION**

Our compensation committee has reviewed and discussed with management the Compensation Discussion and Analysis appearing in this Proxy Statement. Based on the review and discussions noted above, our board of directors recommended that the Compensation Discussion and Analysis be included in this Proxy Statement and incorporated by reference into our Annual Report on Form 10-K for the year ended December 31, 2016.

Jan E. Koe\*

\* Former Compensation Committee members Dr. McMasters and Mr. Smith resigned from the board of directors effective April 3, 2017.

## SUMMARY COMPENSATION TABLE

The table below shows the compensation for services in all capacities we paid during the years ended December 31, 2016, 2015 and 2014 to the executive officers serving as our principal executive officer and principal financial officer and our other executive officer during 2016 (whom we refer to collectively as our “named executive officers”):

Name and Principal Position <sup>(1)</sup>	Year	Salary	Bonus	Option Awards <sup>(2)</sup>	All Other Compensation <sup>(3)</sup>	Total
H. Craig Dees <sup>(4)</sup> Former CEO	2016	\$ 83,334	—	—	\$ 7,154	\$ 90,488
	2015	\$500,000	\$ 200,000	\$ 153,274	\$ 110,692 <sup>(7)</sup>	\$963,966
	2014	\$500,000	—	—	\$ 137,692 <sup>(7)</sup>	\$637,692
Peter R. Culpepper <sup>(5)</sup> Former Interim CFO, CAO and COO	2016	\$500,000 <sup>(6)</sup>	—	—	\$ 123,942 <sup>(7)</sup>	\$623,942
	2015	\$500,000 <sup>(6)</sup>	\$ 200,000	\$ 153,274	\$ 110,692 <sup>(7)</sup>	\$963,966
	2014	\$500,000	—	—	\$ 137,692 <sup>(7)</sup>	\$637,692
Timothy C. Scott President	2016	\$500,000 <sup>(6)</sup>	—	—	\$ 110,234	\$610,234
	2015	\$500,000 <sup>(6)</sup>	\$200,000	\$153,274	\$ 110,692	\$963,966
	2014	\$500,000 <sup>(6)</sup>	—	—	\$ 137,692	\$637,692
Eric A. Wachter Chief Technology Officer	2016	\$500,000 <sup>(6)</sup>	—	—	\$ 101,165	\$601,165
	2015	\$500,000 <sup>(6)</sup>	\$ 200,000	\$ 153,274	\$ 110,692	\$963,966
	2014	\$500,000 <sup>(6)</sup>	—	—	\$ 137,692	\$637,692
John R. Glass Interim Chief Financial Officer	2016	\$138,500	\$ 20,000	—	—	\$158,500

- (1) As of December 31, 2016, we had three executive officers: Timothy C. Scott, our President (principal executive officer), John R. Glass, our Interim Chief Financial Officer (principal financial officer), and Eric A. Wachter, our Chief Technology Officer. H. Craig Dees, our former Chief Executive Officer, served as our principal executive officer until his resignation effective on February 27, 2016. Peter R. Culpepper, our former Interim Chief Executive Officer, Chief Financial Officer and Chief Operating Officer, served as our principal financial officer until the appointment of Mr. Glass on April 18, 2016, and served as our principal executive officer following the resignation of Dr. Dees effective on February 27, 2016 until the termination of Mr. Culpepper for cause on December 27, 2016.
- (2) The amounts in the Option Awards column represent grant date fair values computed in accordance with Financial Accounting Standards Board Accounting Standards Codification Topic 718, *Stock Compensation* (FASB ASC Topic 718). The assumptions used in determining the values of option awards are provided in Note 4 to the Consolidated Financial Statements contained in our Form 10-K for the fiscal year ended December 31, 2015. The fair value reflected in the Option Awards column for 2015 includes 400,000 stock options granted to each of our named executive officers at an exercise price of \$0.75 on December 9, 2015. All the options vested immediately on the date of grant and expire ten years from the date of grant. For purposes of estimating the fair value of each stock option on the date of grant, we utilized the Black-Scholes option-pricing model which totaled \$153,274 in 2015.
- (3) Amounts in this column for 2016 are comprised of the following: unused vacation that was paid out in cash (\$38,462 for each of Mr. Culpepper and Dr. Wachter and \$30,769 for Dr. Scott); Company contributions to our 401(k) plan (\$53,000 for each of Drs. Scott and Wachter and Mr. Culpepper); group health insurance premiums (\$28,860 for Mr. Culpepper and \$22,844 for Dr. Scott); and life, short term disability, and long term disability insurance premiums.
- (4) H. Craig Dees resigned as Chief Executive Officer effective February 27, 2016.
- (5) Effective February 27, 2016, Peter R. Culpepper was appointed Interim Chief Executive Officer and, effective April 18, 2016, upon the appointment of John R. Glass as our Interim Chief Financial Officer, served as our Interim Chief Executive Officer and Chief Operating Officer. On December 27, 2016, the

Board of Directors unanimously voted to terminate Mr. Culpepper for cause from all positions he held with the Company and each of its subsidiaries, including Interim Chief Executive Officer and Chief Operating Officer of the Company.

- (6) This amount reflects the annual base salary for each of Drs. Scott and Wachter and Mr. Culpepper for 2016 and 2015 and Drs. Scott and Wachter for 2014; however, Dr. Scott had \$200,000 withheld from his salary in 2016, \$200,000 withheld from his salary in 2015 and \$33,334 withheld from his salary in 2014, Dr. Wachter had \$200,000 withheld from his salary in 2016, \$200,001 withheld from his salary in 2015 and \$33,333 withheld from his salary in 2014, and Mr. Culpepper had \$200,000 withheld from his salary in 2016 and \$233,333 withheld from his salary in 2015 in connection with the settlement of the Kleba shareholder derivative lawsuit.
- (7) Excludes amounts advanced to Dr. Dees and Mr. Culpepper as travel expenses. The Company has filed suit against Dr. Dees for the recoupment for all unsubstantiated amounts. The Company plans to seek recoupment from Mr. Culpepper for his unsubstantiated expenses. See “Certain Relationships and Related Transactions—Related Party Transactions” below for more information.

#### **GRANTS OF PLAN-BASED AWARDS**

There were no grants of plan-based equity awards granted to the named executive officers during 2016.



## OUTSTANDING EQUITY AWARDS AT 2016 FISCAL YEAR-END

The following table shows the number of equity awards outstanding as of December 31, 2016 for our named executive officers. All the options were exercisable as of December 31, 2016.

<u>Name</u>	Option Awards		
	Number of Shares of Common Stock Underlying Unexercised Options Exercisable (#)	Option Exercise Price (\$)	Option Expiration Date
H. Craig Dees	—	—	—
Peter R. Culpepper	550,000 <sup>(1)</sup>	1.00	7/22/2020
	550,000 <sup>(1)</sup>	0.93	9/6/2021
Timothy C. Scott	50,000	1.50	6/21/2017
	50,000	1.00	6/27/2018
	50,000	1.04	6/19/2019
	50,000	1.16	6/18/2020
	525,000 <sup>(1)</sup>	1.00	7/22/2020
	50,000	1.04	7/6/2021
	525,000 <sup>(1)</sup>	0.93	9/6/2021
	50,000	0.84	6/28/2022
	50,000	0.67	8/19/2023
	400,000	0.75	12/9/2025
Eric A. Wachter	50,000	1.50	6/21/2017
	50,000	1.04	6/19/2019
	50,000	1.16	6/18/2020
	50,000	1.04	7/6/2021
	400,000	0.75	12/9/2025
John R. Glass	—	—	—

- (1) Pursuant to the settlement of the Kleba shareholder derivative lawsuit, Drs. Dees and Scott and Mr. Culpepper agreed to retain incentive stock options for 100,000 shares but forfeited 50% of the nonqualified stock options granted to each such Executive in both 2010 and 2011. The amounts set forth in the table reflect the outstanding options after rescission of 50% of the nonqualified stock options granted to Drs. Dees and Scott and Mr. Culpepper in 2010 and 2011.

### OPTION EXERCISES AND STOCK VESTED

Our named executive officers did not exercise any options or have any stock vest in 2016.

## EQUITY COMPENSATION PLAN INFORMATION

The following table summarizes share and exercise price information about our equity compensation plans as of December 31, 2016:

Plan category	Number of securities to be issued upon exercise of outstanding options, warrants and rights	Weighted-average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under equity compensation plans <sup>(1)</sup>
Equity compensation plans approved by security holders	4,600,000	\$0.94	18,100,000
Equity compensation plans not approved by security holders	—	—	—
Total	4,600,000	\$0.94	18,100,000

- (1) This amount represents shares of common stock available for issuance under the 2014 Equity Compensation Plan as of December 31, 2016. Awards available for grant under the 2014 Equity Compensation Plan include stock options, stock appreciation rights, restricted stock, long-term performance awards and other forms of equity awards.

## DIRECTOR COMPENSATION

Our employee directors are compensated for their service as executive officers and are not separately compensated for their service as directors.

In June 2016, the compensation committee also reviewed and analyzed Board and committee compensation, noting, in particular, that cash compensation for board service and committee service at the Company was in-line with a selected group of what the compensation committee viewed as our peers, that equity compensation to Board members was lower than that of our peer companies, and that the Company was alone in its peer group in failing to pay our chairman/lead independent director for service in that capacity. Consequently, the compensation committee adopted certain policies and practices regarding non-employee director compensation, as follows:

On an annual basis, each non-employee director of the Board receives the following fees as compensation for service as a member of the Board: (i) an annual retainer equal to \$40,000 cash and (ii) an annual stock option grant giving each non-employee director the right to purchase 50,000 shares of our common stock, or such lesser number of shares of our common stock to be determined at a future date in order to comply with NYSE MKT requirements with respect to director compensation, which stock options shall vest immediately on the date of grant at a strike price to be determined at the date of grant. Non-employee directors serving as members of our audit committee compensation will receive \$20,000 per year; the audit committee chairperson will receive \$25,000 per year. Non-employee directors serving as members of our corporate governance and nominating committee members will receive \$10,000 per year; the corporate governance and nominating committee chairperson compensation will receive \$15,000 per year. Non-employee directors serving as members of our compensation committee members will receive \$15,000 per year; the compensation committee chairperson will receive \$20,000 per year. Non-employee directors serving as members of the search committee for the chief executive officer will receive \$20,000 per year; the chairperson of the search committee will receive \$25,000 per year. A non-employee director serving as Chairperson of the Board of Directors or lead independent director, if applicable, will receive \$20,000 per year.

Each of our directors is also reimbursed for expenses incurred in fulfilling his duties as a director, including attending meetings.

In June 2016, the compensation committee opted to amend our 2014 Equity Compensation Plan to allow for restricted stock awards to non-employee directors, subject to approval by our stockholders. If the amendment to the 2014 Equity Compensation Plan is approved by our stockholders at our 2017 annual stockholder meeting, each non-employee director will be awarded 100,000 restricted stock awards annually, retroactive to 2016.

### **2017 Director Compensation Changes**

The recently reconstituted compensation committee, comprised of Bruce Horowitz, Dominic Rodrigues and Jan Koe met on April 12, 2017 to review and analyze the existing compensation of the Board and the various Board committees established in June 2016. At this meeting, the compensation committee unanimously adopted the following policies and practices regarding director compensation for 2017, which were also approved by the Board by unanimous written consent, effective April 14, 2017:

#### *Board, Committee, and Committee Chairperson Retainers*

- Non-employee directors will continue to be paid \$40,000 per year for service on the Board.
- Directors serving on the Corporate Governance and Nominating Committee will continue to be paid \$10,000 per year; the chairperson of the Corporate Governance and Nominating Committee will continue to be paid \$15,000 per year.

#### *Modified Committee and Committee Chairperson Retainers*

- Compensation for directors serving on the Audit Committee will be decreased from \$20,000 per year to \$15,000 per year; the Audit Committee Chairperson's compensation will be decreased from \$25,000 per year to \$15,000 per year.
- Compensation for directors serving on the Compensation Committee will be decreased from \$15,000 per year to \$10,000 per year; the Compensation Committee Chairperson's compensation will be decreased from \$20,000 per year to 15,000 per year.
- The Board (rather than a search committee) will oversee the Company's search for a Chief Medical Officer, a new Chief Executive Officer, and other executive management positions, as appropriate; however, there will be no additional compensation paid to the directors for their work during this executive management search.

#### *Other Modifications*

- Neither stock option grants to purchase shares of the Company's common stock nor shares of restricted stock were awarded to non-employee directors.
- There will be no additional compensation for serving as Chairperson of the Board or Lead Independent Director.
- Director fees will be paid on a monthly, pro-rated basis; provided, however, these fees will accrue until such time as the Board approves the payment of director compensation.

#### *Committee Chairpersons*

- Bruce Horowitz assumed the role of Chairpersonship of the Corporate Governance and Nominating Committee.
- Dominic Rodrigues assumed the role of Chairperson of the Audit Committee.
- Jan E. Koe remains as the Chairperson of the Compensation Committee.

### Director Compensation for 2016 and 2017

- Director fees for 2016 earned or paid in cash to non-employee directors ranged from \$90,000 to \$130,000.
- Director fees for 2017 are projected to be approximately \$75,000 per director, which results in a year-over-year decrease of approximately 17% to 42%.

### Director Compensation Table for 2016

<u>Name<sup>(1)</sup></u>	<u>Fees Earned or Paid in Cash</u>	<u>Warrant and Option Awards<sup>(2)</sup></u>	<u>All Other Compensation</u>	<u>Total</u>
Jan Koe	\$115,000	—	—	\$115,000
Kelly McMasters	\$ 90,000	—	—	\$ 90,000
Alfred E. Smith, IV	\$130,000	—	—	\$130,000

- (1) Our other three directors in 2016 were also full-time employees (Drs. Dees, Scott and Wachter) whose compensation is discussed above under the headings “Compensation Discussion and Analysis” and “Summary Compensation Table.”
- (2) As of December 31, 2016, Dr. McMasters had a total of 400,000 stock options outstanding, Mr. Smith had a total of 250,000 stock options outstanding, and Mr. Koe had a total of 200,000 stock options outstanding.

### COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION

During 2016, Dr. McMasters and Messrs. Koe and Smith served as members of the compensation committee. None of the members of the compensation committee was or had previously been an officer or employee of the Company or our subsidiaries or had any relationship requiring disclosure pursuant to Item 404 of Regulation S-K. Additionally, during 2016, none of our executive officers was a member of the board of directors, or any committee thereof, of any other entity one of the executive officers of which served as a member of our Board of Directors, or any committee thereof.

### CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

#### Policies and Procedures for Related Person Transactions

We have adopted a written related person transactions policy, pursuant to which our executive officers, directors and principal stockholders, including their immediate family members, are not permitted to enter into a related person transaction with us without the consent of our audit committee. Any request for us to enter into a transaction with an executive officer, director, principal stockholder or any of such persons' immediate family members, other than transactions available to all employees generally or involving less than \$10,000 when aggregated with similar transactions, must be presented to our audit committee for review, consideration and approval, unless the transaction involves an employment or other compensatory arrangement approved by the compensation committee. All of our directors, executive officers and employees are required to report to our audit committee any such related person transaction. In approving or rejecting the proposed agreement, our audit committee will take into account, among other factors it deems appropriate, whether the proposed related person transaction is on terms no less favorable than terms generally available to an unaffiliated third party under the same or similar circumstances, the extent of the person's interest in the transaction and, if applicable, the impact on a director's independence. After consideration of these and other factors, the audit committee may approve or reject the transaction. Consistent with the policy, if we should discover related person transactions that have not been approved, the audit committee will be notified and will determine the appropriate action, including ratification, rescission or amendment of the transaction.

## **Related Party Transactions**

### *Dr. Dees Travel Expenses and Related Collection Efforts*

On February 29, 2016, in connection with the resignation of Dr. Dees as the Company's Chief Executive Officer and Chairman of the board of directors, which was effective February 27, 2016, the audit committee conducted a review of Company procedures, policies and practices, including travel expense advancements and reimbursements. The audit committee retained independent counsel and an advisory firm with forensic accounting expertise to assist the audit committee in conducting the investigation. On March 15, 2016, the audit committee completed this investigation and made the following findings: (1) in 2015, Dr. Dees received \$898,430 in travel expense advances but submitted receipts totaling only \$297,170, most of which did not appear to be authentic; (2) in 2014, Dr. Dees received \$819,000 for travel expense advances, for which no receipts were submitted; and (3) in 2013, Dr. Dees received \$752,034 for travel expense advances; no receipts were submitted by Dr. Dees for \$698,000 of these expenses and \$54,034 of submitted receipts did not appear to be authentic. In addition, the Company advanced travel expenses to Dr. Dees in the amount of \$56,627 in the first quarter of 2016 prior to his resignation and prior to the Company's investigation.

On May 5, 2016, the Company filed a lawsuit in the United States District Court for the Eastern District of Tennessee at Knoxville against Dr. Dees and his wife, Virginia Godfrey (together with Dr. Dees, the "Defendants"). The Company alleges that between 2013 and the present, Dr. Dees received approximately \$2.4 million in advanced or reimbursed travel and entertainment expenses from the Company and that Dr. Dees did not use these funds for legitimate travel and entertainment expenses as he requested and the Company intended. Instead, the Company alleges that Dr. Dees created false receipts and documentation for the expenses and applied the funds to personal use. The Company and Dr. Dees are parties to a Stipulated Settlement Agreement dated June 6, 2014 (the "Kleba Settlement Agreement") that was negotiated to resolve certain claims asserted against Dr. Dees derivatively. Pursuant to the terms of the Kleba Settlement Agreement, Dr. Dees agreed to repay the Company compensation that was paid to him along with legal fees and other expenses incurred by the Company. As of the date of his resignation, Dr. Dees still owed the Company \$2,267,750 under the Kleba Settlement Agreement. Dr. Dees has failed to make such payment, and the Company has notified him that he is in default and demanded payment in full. Therefore, the Company is alleging counts of conversion, fraud, breach of fiduciary duty, breach of contract, breach of Kleba Settlement Agreement, unjust enrichment and punitive damages in this lawsuit. The Company is seeking that the Defendants be prohibited from disposing of any property that may have been paid for with the misappropriated funds, the Defendants be disgorged of any funds shown to be fraudulently misappropriated and that the Company be awarded compensatory damages in an amount not less than \$5 million. Furthermore, the Company is seeking for the damages to be joint and several as to the Defendants and that punitive damages be awarded against Dr. Dees in the Company's favor. The Company is also seeking foreclosure of the Company's first-priority security interest in the 1,000,000 shares of common stock granted by Dr. Dees to the Company as collateral pursuant to that certain Stock Pledge Agreement dated October 3, 2014, between Dr. Dees and the Company in order to secure Dr. Dees' obligations under the Kleba Settlement Agreement. The United States District Court for the Eastern District of Tennessee at Knoxville entered a default judgment against the Defendants on July 20, 2016; however, the Company cannot predict when these shares will be recovered by the Company. The Court recently issued a Temporary Restraining Order upon the Company's application for same upon notice that Dr. Dees was attempting to sell his shares of the Company's common stock. The Temporary Restraining Order was converted to a Preliminary Injunction on September 16, 2016, which order will remain in place until the resolution of the underlying lawsuit absent further court order or agreement of the parties, and the Company is presently engaged in discovery regarding damages. On March 15, 2017, the Court granted Ms. Godfrey's motion to set aside the default judgment against her and set a deadline of March 30, 2017 for Ms. Godfrey to file an answer to the Company's complaint. The Court also set the hearing date to determine damages with respect to the motion for default judgment against Dr. Dees for April 26, 2017.

Under the terms of the Amended and Restated Executive Employment Agreement entered into by Dr. H. Craig Dees, the Company's former Chairman and Chief Executive Officer and the Company on April 28, 2014

(the “Dees Agreement”), Dr. Dees is owed no severance payments as a result of his resignation on February 27, 2016. Dr. Dees’s employment terminated with his resignation without “Good Reason” as that term is defined in the Dees Agreement. Under section 6 of the Dees Agreement, “Effect of Termination,” a resignation by Dr. Dees without “Good Reason” terminates any payments due to Dr. Dees as of the last day of his employment.

#### *Mr. Culpepper Travel Expenses and Related Collection Efforts*

On December 27, 2016, the Company’s board of directors unanimously voted to terminate Peter R. Culpepper, effective immediately, from all positions he held with the Company and each of its subsidiaries, including Interim Chief Executive Officer and Chief Operating Officer of the Company, for cause, in accordance with the terms of the Culpepper Employment Agreement based on the results of the investigation conducted by a Special Committee of the board of directors regarding improper travel expense advancements and reimbursements to Mr. Culpepper.

The Special Committee retained independent counsel and an advisory firm with forensic accounting expertise to assist the Special Committee in conducting the investigation. The Special Committee found that Mr. Culpepper received \$294,255 in travel expense reimbursements and advances that were unsubstantiated. The Company seeks to recover from Mr. Culpepper the entire \$294,255 in unsubstantiated travel expense reimbursements and advances, as well as all attorney’s fees and auditors’/experts’ fees incurred by the Company in connection with the examination of his travel expense reimbursements. The Company is in the process of determining whether any or all of Mr. Culpepper’s unsubstantiated travel expenses and advances should be treated as a theft loss and therefore whether any uncollectible amounts will be treated as income to Mr. Culpepper and whether a Form 1099 MISC will be issued by the Company to Mr. Culpepper in 2017 in that regard.

Under the terms of the Culpepper Employment Agreement, Mr. Culpepper is owed no severance payments as a result of his termination “For Cause” as that term is defined in the Culpepper Employment Agreement. Under section 6 of the Culpepper Employment Agreement, “Effect of Termination,” a termination “For Cause” terminates any payments due to Mr. Culpepper as of the last day of his employment. Furthermore, Mr. Culpepper is no longer entitled to the 2:1 credit under the settlement agreement with respect to the Kleba shareholder derivative lawsuit, such that the total \$2,240,000 owed by Mr. Culpepper pursuant to the settlement agreement plus Mr. Culpepper’s proportionate share of the litigation cost in the amount of \$227,750 less the amount that he repaid as of December 31, 2016 is immediately due and payable. The Company sent Mr. Culpepper a notice of default in January 2017 for the total amount he owes the Company and intends to resolve these claims pursuant to the alternative dispute resolution provision of the Culpepper Employment Agreement. The Company has established a reserve of \$2,051,083 as of December 31, 2016, which amount represents the amount the Company currently believes Mr. Culpepper owes to the Company, while the Company pursues collection of this amount.

Mr. Culpepper disputes that he was terminated “for cause” under the Culpepper Employment Agreement and Mr. Culpepper has demanded this issue be resolved by mediation in accordance with the Culpepper Employment Agreement. The Company is in the process of responding to Mr. Culpepper’s demand, and the mediation has been scheduled for June 28, 2017. Concurrently, the Company is seeking from Mr. Culpepper immediate payment of amounts due under the Kleba Settlement Agreement as noted above.

#### *Convertible Promissory Note*

On February 21, 2017, the Company issued a convertible promissory note in favor of Eric A. Wachter, the Company’s Chief Technology Officer (“Lender”), evidencing an unsecured loan from Lender to the Company in the original principal amount of up to \$2,500,000 (the “Promissory Note”). Interest accrues on the outstanding balance of the Promissory Note at six percent (6%) per annum calculated on a 360-day basis. As of March 29, 2017, the Company has borrowed the entire \$2,500,000 principal amount under the Promissory Note.

Pursuant to the terms of the Promissory Note, in the event that, prior to the repayment in full of the Promissory Note, the Company consummates a bona fide equity financing conducted with the principal purpose of raising capital, pursuant to which the Company sells shares or units of an equity security or preferred equity approved by the board of directors, which board of directors must consist of at least a majority of the members on the board of directors serving as of the date of the Promissory Note (a “Qualified Equity Financing”), then such amount of the outstanding principal due under the Promissory Note plus all accrued but unpaid interest that may be included in the Qualified Equity Financing shall automatically convert into the equity securities or securities convertible into equity securities of the Company issued in such Qualified Equity Financing (“New Securities”) at the price per New Security at which the Company issues any New Securities in any public or private offering during the period that the Promissory Note is outstanding and otherwise on the same terms (including the same rights, preferences and privileges) as the other investors that purchase New Securities in such Qualified Equity Financing.

The Promissory Note matures on the earlier of (i) May 22, 2017, (ii) the date upon which the Company defaults under the Promissory Note or (iii) the date on which the Promissory Note is converted into New Securities (the earliest of such dates, the “Maturity Date”). In lieu of repayment on the Maturity Date, Lender may elect in his sole discretion to apply any and all amounts due and owing to Lender under the Promissory Note to Lender’s obligations under that certain Settlement Agreement dated June 6, 2014 by and between Lender and the Company.

Further, under the Promissory Note, the Company has agreed to pay to Lender up to \$25,000 for Lender’s reasonable legal fees and expenses incurred in connection with the transactions contemplated by the Promissory Note. The Company may prepay principal and interest under the Promissory Note at any time, in whole or in part, without premium or other prepayment charges.

Pursuant to a Waiver of Rights Agreement, Lender further agreed to waive his rights (A) to foreclose on the assets of the Company or (B) to initiate, or cause the initiation of, any proceeding in bankruptcy or the appointment of any custodian, trustee or liquidator of the Company or of all or a portion of the Company’s assets in the event of default under the Promissory Note so long as (i) any shares of Series C Preferred Stock of the Company issued pursuant to the Rights Offering commenced by the Company on January 30, 2017 remain outstanding (other than such shares of Series C Preferred Stock held by Lender) and (ii) a change in control of the Company has not occurred, which is any transaction that results in either (a) the shareholders of the Company not continuing to hold at least 50% of the voting interest in the Company after such transaction or (b) the directors of the Company serving on the board of directors as of February 21, 2017 no longer represent a majority of the outstanding board members.

The Promissory Note was amended and restated on April 3, 2017. See “First Tranche of 2017 Financing” below.

#### *First Tranche of 2017 Financing*

On March 23, 2017, the Company entered into an exclusive Definitive Financing Commitment Term Sheet effective as of March 19, 2017 (the “Term Sheet”), which sets forth the terms on which the PRH Group will provide financing to the Company. As described in the Term Sheet, the 2017 Financing from the PRH Group is in the form of a loan (the “Loan”) that is evidenced by secured convertible promissory notes (individually a “PRH Note” and collectively, the “PRH Notes”).

In connection with the funding of the First Tranche, as described in the Term Sheet, the Company, on April 3, 2017, entered into a PRH Note with Cal Enterprises LLC, a Nevada limited liability company, an affiliate of Dominic Rodrigues (the “Rodrigues Note”), in the principal amount of \$2.5 million. In addition, Eric Wachter amended and restated his promissory note from the Company in the principal amount of \$2.5 million

(the “Wachter Note”) in order to match the terms of the Wachter Note to the PRH Notes. As previously described, in addition to the customary provisions, each of the Rodrigues Note and the Wachter Note contains the following provisions:

- (i) They are secured on a pari passu basis by a first priority security interest on the Company’s U.S. intellectual property;
- (ii) They bear interest at the rate of eight percent (8%) per annum on the outstanding principal amount;
- (iii) In the event there is a change of control of the Company’s board of directors as proposed by any person or group other than the PRH Group or Dr. Wachter (the “Lenders”), the term of each of the Wachter Note and the Rodrigues Note will be accelerated and all amounts due under the Wachter Note and the Rodrigues Note will be immediately due and payable, plus interest at the rate of eight percent (8%) per annum, plus a penalty in the amount equal to ten times (10x) the outstanding principal amount of the Wachter Note and the Rodrigues Note that has been funded to the Company;
- (iv) The outstanding principal amount and interest payable under the Notes is convertible at the sole discretion of the Lenders into shares of the Company’s Series D Preferred Stock, a new series of preferred stock to be designated by the Board, at a price per share equal to \$0.2862; and
- (v) Notwithstanding (v) above, the principal amount of the Notes and the interest payable thereunder will automatically convert into shares of the Company’s Series D Preferred Stock at a price per share equal to \$0.2862 effective on the 18 month anniversary of the funding of the final tranche of the 2017 Financing, subject to certain exceptions.

As of March 29, 2017, the Company has drawn down the entire amount of \$2.5 million of the Wachter Note. On April 3, 2017, the Company issued a borrowing request for \$500,000 under the Rodrigues Note, which was thereafter funded in full.

Other than as set forth above, we had no transactions during 2016 that would be required to be disclosed under Item 404(a) of Regulation S-K, and no such transactions are currently proposed for 2017.



## PROPOSAL 1

### ELECTION OF DIRECTORS

#### Director Nominees

The persons listed below have been nominated by our board of directors to serve as directors for a one-year term expiring at the annual meeting of stockholders occurring in 2018. Each nominee has consented to serve on our board of directors. If any nominee were to become unavailable to serve as a director, our board of directors may designate a substitute nominee. In that case, the persons named as proxies on the accompanying proxy card will vote for the substitute nominee designated by our board of directors.

**Bruce Horowitz**, 61, has served as the Managing Director of Capital Strategists, LLC, which provides corporate, strategic, and financial consulting services, since September 2006. He also serves as a trusted advisor to family trusts and private individuals, with a focus on financial asset management, real estate management and special situation investments. Earlier in his career Mr. Horowitz was a charter member of the New York Futures Exchange, a Senior Vice President managing principal equity investment accounts, private equity investments and public offerings at Drake Capital Securities, and managed the trading department at Laidlaw Equities. He was also a partner at Stanley Capital, a private equity buyout firm. Mr. Horowitz was the chairman and a member of two general obligation bond fund committees, raising more than \$500 million in general revenue bonds for the Beverly Hills Unified School District. Subsequently, he was named the first chairman of both the state of California-mandated Citizens' Oversight Committee and Facilities Advisory Committee, overseeing expenditure of all BHUSD general obligation bond funds. Mr. Horowitz is a founding member of the Los Angeles Chapter of the Positive Coaching Alliance. He founded and is currently the president of the Beverly Hills Basketball League, a youth basketball program that serves more than 35,000 families. Mr. Horowitz has also served as a member of the board of directors of the American Youth Soccer Organization and Beverly Hills Little League. He holds a Juris Doctor degree from Benjamin N. Cardozo School of Law in New York City and Bachelor of Arts degree from Washington University in St. Louis.

**Dominic Rodrigues**, 48, has served as President of Rhisk Capital, which provides management consulting, corporate development, and portfolio management services, since 2005. Project industries and technologies have included aerospace & defense (a technology-focused investment capital pool; an operational role in a related data communications solutions company), biotechnology, financial services (a capital markets-focused technology company), gaming, healthcare, life sciences, nanotechnology (a venture capital fund investment), wealth management (a start-up private wealth office), and restaurants. Since 2013 Mr. Rodrigues has been an Adjunct Professor of Finance at the Lee Business School of the University of Nevada, Las Vegas, where he teaches a CFA Level 1 exam preparation course. His business development, corporate development, finance, and leadership experiences at various companies include SAIC Venture Capital Corporation, the multi-billion dollar subsidiary of research and engineering company SAIC, where he was an observer or member of the board of directors of 11 different firms. Mr. Rodrigues currently serves as a member of the audit & finance committee of Three Square Food Bank. He holds business, economics, and engineering degrees from The Wharton School, the London School of Economics, the Massachusetts Institute of Technology, and the University of Toronto. Mr. Rodrigues also is a Chartered Financial Analyst.

**Eric A. Wachter, Ph.D.**, 54, serves as our Chief Technology Officer since May 14, 2012 and as a member of our board of directors since February 29, 2016. Dr. Wachter previously served as Executive Vice President – Pharmaceuticals and as a member of our board of directors since we acquired PPI on April 23, 2002 until May 14, 2012. Prior to joining us, from 1997 to 2002 he was a senior member of the management team of Photogen, including serving as Secretary and a director of Photogen since 1997 and as Vice President and Secretary and a director of Photogen since 1999. Prior to joining Photogen, Dr. Wachter served as a senior research staff member with Oak Ridge National Laboratory. He earned a Ph.D. in Chemistry from the University of Wisconsin–Madison in 1988.

**Jan E. Koe**, 66, has served as a member of our board of directors since May 14, 2012. Mr. Koe has a 30-year track record of success in consulting, asset management, real estate and public company governance, and has represented major insurance firms, national retailers and Fortune 500 companies. He is President of GoStar, which is the manager of Real Solutions Opportunity Fund 2005-I and Real Solutions Fund Management LLC and Real Solutions Investment LLC. He is also Principal of Method K Partners, Inc., a commercial real estate firm, which he founded in 1988. He has served on the board of directors of ONE Bio, Corp. where he was Chair of the Compensation Committee and a member of the Financial Audit Committee. He holds a degree in Business Administration and Psychology from Luther College.

#### **Experience, Qualifications, Attributes and Skills of Our Director Nominees**

Each of our directors brings a strong and unique set of experience, qualifications, attributes and skills in a variety of areas. Set forth below are the specific experience, qualifications, attributes and skills of our directors that led to the conclusion that each director should serve as a member of our board of directors.

**Bruce Horowitz** brings extensive and diverse board of directors, business development, corporate development, strategic planning, capital formation and leadership experience to our board of directors and company management from his prior and ongoing work, non-profit volunteerism, and education background.

**Dominic Rodrigues** brings extensive and diverse board of directors and board committee, business development, corporate development, finance, and leadership experience to our board of directors and company management from his prior and ongoing work and professional volunteerism, and education background.

**Eric A. Wachter, Ph.D.**, has extensive experience researching, developing, and testing potential pharmaceutical products, including our products. He has extensive experience protecting and enhancing our intellectual property. He holds a Ph.D. in Chemistry, which we believe provides us with specialized knowledge in that field.

**Jan Koe** brings significant chief executive experience to our board of directors from his position as President of GoStar. In addition, Mr. Koe also has board committee experience stemming from his service as chairman of the compensation committee and a member of the audit committee of ONE Bio Corp.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT THE STOCKHOLDERS VOTE “FOR” EACH OF THE NOMINEES FOR ELECTION TO OUR BOARD OF DIRECTORS NAMED ABOVE.** Each proxy solicited on behalf of our board of directors will be voted *FOR* each of the nominees for election to our board of directors unless the stockholder instructs otherwise in the proxy.

## PROPOSAL 2

### ADVISORY VOTE TO APPROVE THE COMPENSATION OF OUR NAMED EXECUTIVE OFFICERS

As required pursuant to Section 14A of the Securities Exchange Act, we are submitting for stockholder advisory vote a resolution to approve the compensation paid to our named executive officers, as disclosed pursuant to the compensation disclosure rules of the SEC, including the compensation tables and related compensation discussion and analysis contained in this Proxy Statement.

At our annual meeting of stockholders held on June 16, 2016, stockholders holding 57% of the shares voting on a non-binding advisory vote on the compensation of the Company's named executive officers ("Say on Pay") voted to approve the compensation paid to our named executive officers, while stockholders holding 39% of the shares voting on Say on Pay voted "against" such compensation. Although Say on Pay passed by a majority of the shares that were voted at the annual meeting, the compensation committee determined it was significant that (i) stockholders holding less than 60% of the voting shares voted "for" Say on Pay and (ii) stockholders holding more than 35% of the voting shares voted "against" Say on Pay.

As a result of the results of the Say on Pay vote, the compensation committee immediately initiated and directed a comprehensive review of the Company's compensation policies and practices. As part of its comprehensive review, the compensation committee further studied the data provided by Pearl Meyer and met in executive session with Pearl Meyer to further discuss Pearl Meyer's reports. The compensation committee also conducted additional analysis on executive compensation for the peer companies identified by Pearl Meyer. Members of the compensation committee also reached out to certain of the Company's stockholders representing approximately 10% of the Company's outstanding shares of common stock to better understand the reasons for the relatively low percentage of "for" votes on Say on Pay and held direct conversations with each of these stockholders. The primary focus of these stockholder meetings was to seek specific feedback on executive compensation and review potential changes to existing compensation practices. The feedback received from these participating stockholders was incorporated into the compensation committee discussion and determination of the changes to executive compensation. We will continue to consider stockholder feedback in the future with respect to both our stockholder advisory votes on executive compensation and informal feedback we receive from our stockholders.

Accordingly, the following resolution will be submitted for stockholder approval at the annual meeting:

"RESOLVED, that the compensation paid to the Company's named executive officers, as disclosed pursuant to the compensation disclosure rules of the Securities and Exchange Commission, including the compensation tables and related compensation discussion and analysis contained in this Proxy Statement, is hereby APPROVED."

The advisory vote on the compensation of our named executive officers is non-binding. The approval or disapproval of the resolution approving our executive compensation by our stockholders will not require our board of directors to take any action regarding our executive compensation practices. The final decision on the compensation and benefits of our named executive officers and whether, and if so, how, to address stockholder disapproval remains with our board of directors.

Our board of directors believes that it is in the best position to consider the extensive information and factors necessary to make independent, objective, and competitive compensation recommendations and decisions that are in our best interest and the best interest of our stockholders.

Our board of directors values the opinions of our stockholders as expressed through their votes and other communications. Although the resolution is non-binding, our board of directors will carefully consider the outcome of the advisory vote to approve the compensation of our named executive officers and those opinions when making future compensation decisions.

The next advisory vote on the compensation of our executive officers will occur at the 2018 annual meeting of stockholders.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE *FOR* THE APPROVAL OF THE COMPENSATION OF OUR NAMED EXECUTIVE OFFICERS.** Each proxy solicited on behalf of our board of directors will be voted *FOR* the approval of the compensation of our named executive officers unless the stockholder instructs otherwise in the proxy.

### PROPOSAL 3

#### ADVISORY VOTE ON FREQUENCY OF ADVISORY VOTE ON EXECUTIVE COMPENSATION

The Company is presenting the following proposal, which gives you the opportunity to vote on the frequency of the required advisory vote on the compensation of the Company's named executive officers. This proposal is required by SEC rules. You may elect to have the vote held annually, every two years or every three years, or you may abstain. Because your vote is advisory, it will not be binding upon the board of directors. However, the Company has adopted a policy that it will follow the alternative that receives the plurality of votes cast.

The board of directors recommends that you vote in favor of an advisory vote on executive compensation every year so that our shareholders may provide us with direct and timely input on our executive compensation program. We believe that current best corporate practices and governance trends favor an annual advisory vote and have previously determined to hold an annual advisory vote. While we believe that annually is an appropriate timeframe in which to solicit shareholders' feedback on compensation design, this proposal is not to approve or disapprove of the company's recommendation.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU SELECT "1 YEAR" IN CONNECTION WITH THE PROPOSAL REGARDING AN ADVISORY VOTE ON THE FREQUENCY OF FUTURE ADVISORY VOTES ON EXECUTIVE COMPENSATION.** Each proxy solicited on behalf of our board of directors will be voted in favor of *1 YEAR* unless the stockholder instructs otherwise in the proxy.

## PROPOSAL 4

### RATIFICATION OF SELECTION OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

#### General

Each of our audit committee and board of directors has unanimously selected Marcum LLP as the independent registered public accounting firm to perform the audit of our consolidated financial statements for 2017. Marcum LLP is an independent registered public accounting firm.

Our board of directors is asking our stockholders to ratify the selection of Marcum LLP as our independent registered public accounting firm for 2017. Although not required by law or our bylaws, our board of directors is submitting the selection of Marcum LLP to our stockholders for ratification as a matter of good corporate practice. Even if the selection is ratified, our board of directors, in its discretion, may select a different registered public accounting firm at any time during the year if it determines that such a change would be in the best interests of us and our stockholders.

#### Previous Independent Registered Public Accounting Firm

During and for the fiscal years ended December 31, 2015 and 2014, BDO USA, LLP audited and rendered opinions on the financial statements of the Company and its subsidiaries. BDO USA, LLP also rendered opinions on the Company's internal control over financial reporting as of December 31, 2015 and 2014.

On April 26, 2016, the Company notified its independent registered public accounting firm, BDO USA, LLP, of its decision to dismiss BDO USA, LLP, effective as of that date, and to appoint another independent registered public accounting firm, Marcum LLP. The decision to change independent registered public accounting firms was unanimously approved by the Company's audit committee and board of directors.

BDO USA, LLP's reports on the consolidated financial statements of the Company for the fiscal years ended December 31, 2015 and 2014, did not contain an adverse opinion or a disclaimer of opinion and were not qualified or modified as to uncertainty, audit scope or accounting principle.

During the fiscal years ended December 31, 2015 and 2014, and the subsequent interim period through April 26, 2016, the date of BDO USA, LLP's dismissal, there were no "disagreements" (as defined in Item 304(a)(1)(iv) of Regulation S-K and related instructions) with BDO USA, LLP on any matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of BDO USA, LLP, would have caused BDO USA, LLP to make reference to the subject matter of the disagreements in connection with its reports on the Company's consolidated financial statements for such periods.

During the fiscal years ended December 31, 2015 and 2014, and the subsequent interim period through April 26, 2016, there were no "reportable events" (as defined in Item 304(a)(1)(v) of Regulation S-K), other than the identification of a material weakness in the Company's internal control over financial reporting as described in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2015 (the "2015 Form 10-K"). As disclosed in Item 9A to the 2015 Form 10-K, the Company's principal executive officer and principal financial officer concluded that, as of December 31, 2015, the Company's internal control over financial reporting was not effective due to a material weakness related to the Company's travel expense advancement and reimbursement policies and procedures that relate to the Company's former Chief Executive Officer and Chairman of the board of directors, H. Craig Dees, Ph.D. BDO USA, LLP's audit report included in the 2015 10-K with respect to the Company's internal control over financial reporting opined that the Company did not maintain effective internal control over financial reporting as of December 31, 2015 because of this material

weakness. The subject matter of this material weakness was discussed by the Company’s audit committee with BDO USA, LLP. The audit committee has authorized BDO USA, LLP to respond fully to the inquiries of the successor independent registered public accounting firm concerning this material weakness.

The Company has provided BDO USA, LLP with a copy of the foregoing disclosures and requested that BDO USA, LLP furnish the Company with a letter addressed to the SEC stating whether or not it agrees with the statements in the above paragraphs. A copy of BDO USA, LLP’s letter was attached as Exhibit 16.1 to the Company’s Current Report on Form 8-K filed with the SEC on April 29, 2016.

**Current Independent Registered Public Accounting Firm**

On April 26, 2016, the Company engaged Marcum LLP as its independent registered public accounting firm. The decision to engage Marcum LLP as the Company’s independent registered public accounting firm was unanimously approved by the Company’s audit committee and board of directors. During the years ended December 31, 2015 and 2014, and through April 26, 2016, the date of Marcum LLP’s engagement, the Company did not consult with Marcum LLP regarding any of the matters or events set forth in Item 304(a)(2)(i) and (ii) of Regulation S-K.

Representatives of Marcum LLP are expected to be present at the annual meeting telephonically. They will have an opportunity to make a statement if they desire and will be available to respond to appropriate questions from our stockholders.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE FOR THE RATIFICATION OF THE SELECTION OF MARCUM LLP AS OUR INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM FOR 2017.** Each proxy solicited on behalf of our board of directors will be voted *FOR* the ratification of the selection of Marcum LLP as our independent registered public accounting firm for 2017 unless the stockholder instructs otherwise in the proxy. If our stockholders do not ratify the selection, the matter will be reconsidered by our board of directors.

**Audit and Non-Audit Services**

Our audit committee is directly responsible for the appointment, compensation, and oversight of our independent registered public accounting firm. It is the policy of our audit committee to pre-approve all audit and non-audit services provided by our independent registered public accountants. Our audit committee has considered whether the provision by Marcum LLP of services of the varieties described below was compatible with maintaining the independence of Marcum LLP. Our audit committee believes the provision of such services to us did not jeopardize the independence of Marcum LLP as the Company’s independent registered public accounting firm for the 2016 fiscal year.

The table below sets forth the aggregate fees we paid to Marcum LLP for audit and non-audit services provided to us in 2016 and the aggregate fees we paid to BDO USA, LLP for audit and non-audit services provided to us in 2015:

<u>Fees</u>	<u>2016</u>	<u>2015</u>
Audit Fees	\$326,638	\$411,000
Audit-Related Fees	—	—
Tax Fees	—	—
All Other Fees	—	—
Total	<u>\$326,638</u>	<u>\$411,000</u>

In the above table, in accordance with the SEC’s definitions and rules, “audit fees” are fees for professional services for the audit of a company’s financial statements included in the annual report on Form 10-K, for the

review of a company's financial statements included in the quarterly reports on Form 10-Q, and for services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements; "audit-related fees" are fees for assurance and related services that are reasonably related to the performance of the audit or review of a company's financial statements; "tax fees" are fees for tax compliance, tax advice, and tax planning; and "all other fees" are fees for any services not included in the first three categories.

## AUDIT COMMITTEE REPORT

Our audit committee has the responsibilities and powers set forth in its charter, which include the responsibility to assist our board of directors in its oversight of our accounting and financial reporting principles and policies and internal audit controls and procedures, the integrity of our financial statements, our compliance with legal and regulatory requirements, the independent registered public accounting firm's qualifications and independence, and the performance of the independent registered public accounting firm and our internal audit function. The audit committee is also required to prepare this report to be included in our annual Proxy Statement pursuant to the proxy rules of the SEC.

Management is responsible for the preparation, presentation and integrity of our financial statements and for maintaining appropriate accounting and financial reporting principles and policies and internal controls and procedures to provide for compliance with accounting standards and applicable laws and regulations. The internal auditor is responsible for testing such internal controls and procedures. Our independent registered public accounting firm is responsible for planning and carrying out a proper audit of our annual financial statements, reviews of our quarterly financial statements prior to the filing of each quarterly report on Form 10-Q, and other procedures.

The audit committee reviews our financial reporting process. In this context, the audit committee:

- reviewed and discussed with management the audited financial statements for the year ended December 31, 2016;
- discussed with Marcum LLP, our independent registered public accountants, the matters required to be discussed by Auditing Standard No. 16, Communications with Audit Committees, as adopted by the Public Company Accounting Oversight Board; and
- received the written disclosures and the letter from Marcum LLP required by PCAOB Rule 3526 ("Independence Discussions with Audit Committees"), as modified or supplemented, and has discussed with Marcum LLP the independent accountant's independence.

Based on this review and the discussions referred to above, the audit committee recommended that our board of directors include the audited financial statements in our Annual Report on Form 10-K for the year ended December 31, 2016, for filing with the SEC.

This report is submitted on behalf of the members of the audit committee and shall not be deemed "soliciting material" or to be "filed" with the SEC, nor shall it be incorporated by any general statement incorporating by reference this Proxy Statement into any filing under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, except to the extent that we specifically incorporate this information by reference and shall not otherwise be deemed filed under these Acts.

Jan E. Koe\*

\* Former Audit Committee members Dr. McMasters and Mr. Smith resigned from the board of directors effective April 3, 2017.



## PROPOSAL 5

### AMENDMENT OF THE CERTIFICATE OF INCORPORATION TO INCREASE AUTHORIZED SHARES OF PREFERRED STOCK

#### Description of the Amendment

Our Board of Directors has unanimously adopted a resolution to amend our Certificate of Incorporation to increase the number of shares of preferred stock, par value \$0.001 per share, that we are authorized to issue from 25,000,000 to 100,000,000 shares of preferred stock and has directed that the proposed amendment be submitted to our stockholders for their approval and adoption. The amendment will not change the number of shares of common stock that are authorized, and the total authorized shares of capital stock will be increased from 1,025,000,000 to 1,100,000,000. The amendment will replace introductory sentence of Article IV thereof in its entirety and substitute the following in its place:

The total number of shares which the Corporation shall have authority to issue is 1,100,000,000 shares of capital stock, of which 1,000,000,000 shares shall be designated Common Stock, \$0.001 par value per share (“Common Stock”), and 100,000,000 shall be designated Preferred Stock, \$0.001 par value per share (“Preferred Stock”).

#### Background and Reasons for the Proposed Amendment

We may issue shares of capital stock to the extent such shares have been authorized under our Certificate of Incorporation. Our Certificate of Incorporation currently authorizes us to issue 25,000,000 shares of preferred stock, par value \$0.001 per share. The preferred stock is designated as follows: 240,000 shares are designated as Series B Convertible Preferred Stock, of which 100 were issued and outstanding as of April 7, 2017.

The Company entered into an exclusive Definitive Financing Commitment Term Sheet, effective as of March 19, 2017, which sets forth the terms on which a group of the Company’s stockholders (the “PRH Group”) will provide financing (the “Financing”) to the Company (the “Term Sheet”). Subject to the terms and conditions of the Term Sheet, the PRH Group agreed to use its best efforts to arrange for a financing of a minimum of \$10,000,000 and maximum of \$20,000,000 (the “Financing”), which amounts will be provided in several tranches. The Financing is in the form of a loan (the “Loan”) from the PRH Group, Eric Wachter, and from other investors (collectively, the “Investors”). The Loan is and will be evidenced by secured convertible promissory notes (each, a “Note”) from the Company to the Investors.

In addition to the customary provisions, among other things, the outstanding principal amount and interest payable under the Loan is convertible at the sole discretion of the Investors into shares of the Company’s Series D Preferred Stock, a new series of preferred stock to be designated by the Board, at a price per share equal to \$0.2862. The principal amount of the Note and the interest payable under the Loan will automatically convert into shares of the Company’s Series D Preferred Stock at a price per share equal to \$0.2862 effective on the 18 month anniversary of the funding of the final tranche of the Financing subject to certain exceptions.

Our Board of Directors believes that the current amount of preferred stock available for issuance is insufficient to meet both the Company’s obligations under the Notes upon conversion into shares of Series D Preferred Stock and to give the Company appropriate flexibility to issue shares of preferred stock for future corporate needs. Specifically, up to approximately 70 million shares of Series D Preferred Stock may be issued upon conversion of the Notes in the event the Company raises \$20 million of principal of the Notes and the Company only has 24.76 million undesignated shares of preferred stock.

Shares of preferred stock may be used for various purposes without further stockholder approval. These purposes may include: raising additional capital, providing equity incentives to employees, directors and consultants, establishing strategic relationships with other companies, the acquisition of any business, assets or

technology, and other purposes. Although our Board of Directors has no current plan arrangement or commitment beyond the scope of the Term Sheet and the Company's obligations with respect to the Notes to issue additional shares of Series D Preferred Stock, our Board of Directors believes that it is in the best interest of us and our stockholders to have a sufficient number of authorized but unissued shares of preferred stock available to meet its current obligation, as well as for issuance in the future for such purposes.

### **Effects of the Increase in Authorized Preferred Stock**

The issuance of preferred stock could adversely affect the rights of holders of our common stock. When we issue preferred stock, such preferred stock will include certain designations, rights, qualifications, preferences, limitations and terms, any of which may dilute the voting power or economic interest of holders of our common stock. Preferred stock, once issued, could result in:

- Reduction of the amount of funds otherwise available for payment of dividends on the Company's common stock;
- Restrictions on dividends that may be paid on our common stock (although there are no current plans to pay dividends on our common stock);
- Dilution of the voting power of our common stock; and
- Restrictions on the rights of holders of our common stock to share in our assets on liquidation until satisfaction of any liquidation preference granted to the holders of our preferred stock.

We could also issue shares of preferred stock that may, depending on the terms of such issued preferred stock, make more difficult or discourage an attempt to obtain control of the Company by means of a merger, tender offer, proxy contest or other means. When, in the judgment of the Board of Directors, this action would be in the Company's best interest and the best interest of our stockholders, such shares could be used to create voting or other impediments or to discourage persons seeking to gain control of the Company.

The existence of the additional authorized preferred stock could have the effect of discouraging unsolicited takeover attempts. The issuance of preferred stock also could be used to dilute the stock ownership of a person or entity seeking to obtain control of the Company should the Board of Directors consider the action of such entity or person not to be in the best interest of our stockholders. The issuance of preferred stock also could be used to entrench current management or deter an attempt to replace the members on the Board of Directors by diluting the number or rights of shares held by individuals seeking to control the Company by obtaining a certain number of seats on our Board of Directors. Our Board of Directors is not aware of any present or contemplated attempt to acquire control of the Company, and this proposal is not being presented with the intent that it be utilized as an anti-takeover device.

### **Vote Required**

The approval and adoption of the amendment to our Certificate of Incorporation requires the affirmative vote of stockholders who hold a majority of the outstanding shares of common stock entitled to vote in person or by proxy. If the amendment is approved and adopted, it will become effective upon filing a Certificate of Amendment with the Delaware Secretary of State. After filing the Certificate of Amendment, the additional shares of preferred stock may be issued from time to time by action of our Board of Directors on such terms and for such purposes as our Board of Directors may consider appropriate. In the event that the proposed amendment is not approved and adopted by our stockholders at the annual meeting, the current Certificate of Incorporation will remain in effect.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT STOCKHOLDERS VOTE “FOR” THE APPROVAL OF PROPOSAL 5 TO APPROVE AND ADOPT AN AMENDMENT TO OUR CERTIFICATE OF INCORPORATION TO INCREASE THE NUMBER OF SHARES OF PREFERRED STOCK THAT WE ARE AUTHORIZED TO ISSUE FROM 25,000,000 TO 100,000,000 SHARES.** Each proxy solicited on behalf of our Board of Directors will be voted *FOR* the approval and adoption of the amendment to our Certificate of Incorporation unless the stockholder instructs otherwise in the proxy.

## PROPOSAL 6

### AMENDMENT OF THE PROVECTUS EQUITY COMPENSATION PLAN

Effective July 2016, subject to approval of our stockholders, the Board of Directors, on the recommendation of the compensation committee, unanimously approved and adopted an amendment and restatement (the “Plan Amendment”) of the Provectus Biopharmaceuticals, Inc. 2014 Equity Compensation Plan (currently, the “Current Plan” and if amended by the Plan Amendment, the “Amended Plan”) for the benefit of non-employee directors of Provectus to receive shares of restricted common stock. If our stockholders approve the Plan Amendment at the 2017 annual stockholder meeting, the Company will be able to issue, in addition to the Options issuable under the Current Plan, shares of restricted stock to our non-employee directors. The principal provisions of the Amended Plan are summarized below. This summary is qualified in its entirety by reference to the full text of the Amended Plan, which is attached as Appendix A to this Proxy Statement.

#### **Purpose of Current Plan**

The purpose of the Current Plan is to promote the interests of the Company, its subsidiaries and its stockholders by (i) attracting and retaining key officers, employees, and directors of the Company and its subsidiaries and affiliates; (ii) motivating such individuals by means of performance-related incentives to achieve long-range performance goals; (iii) enabling such individuals to participate in the long-term growth and financial success of the Company; (iv) encouraging ownership of stock in the Company by such individuals; and (v) linking their compensation to the long-term interests of the Company and its stockholders. Our Board of Directors believes that this purpose will be better served under the Amended Plan because the Amended Plan will provide the compensation committee with greater flexibility in the ways in which it could incentivize and reward the recipients under the Amended Plan.

#### **Eligible Persons and Shares Available**

Our employees and directors are eligible to participate in our Current Plan (the “Participants”). These same Participants will be eligible under the Amended Plan.

Under the Current Plan, the Company is authorized to grant Options for up to 20 million shares of common stock (the “Plan Pool”). Under the Amended Plan, we will be able to issue, in addition to these Options, shares of restricted stock from the Plan Pool.

#### **Reasons for the Plan Amendment**

As reported in the Current Report on Form 8-K filed by the Company with the SEC on June 17, 2016, stockholders holding 57% of the shares voting on the non-binding advisory vote on the compensation of the Company’s named executive officers (“Say on Pay”) at the Company’s annual meeting of stockholders held on June 16, 2016 voted to approve the compensation paid to the Company’s named executive officers, while stockholders holding 39% of the shares voting on Say on Pay voted “against” such compensation. Although Say on Pay passed by a majority of the shares that were voted at the annual meeting, the compensation committee considered it significant that (i) stockholders holding less than 60% of the voting shares voted “for” Say on Pay and (ii) stockholders holding more than 35% of the voting shares voted “against” Say on Pay.

As a result of the results of the Say on Pay vote, the compensation committee immediately initiated and directed a comprehensive review of the Company’s compensation policies and practices. The compensation committee had previously retained Pearl Meyer (“Pearl Meyer”), an independent executive compensation consultant, to update the market pay analysis for executive officers and non-employee directors based on a review of peer group proxy statement filings and published compensation surveys. As part of its comprehensive review, the compensation committee studied the data provided by Pearl Meyer and met in executive session with

Pearl Meyer to discuss Pearl Meyer's reports. The compensation committee also conducted additional analysis on executive compensation for the peer companies identified by Pearl Meyer. Members of the compensation committee also reached out to certain of the Company's stockholders representing approximately 10% of the Company's outstanding shares of common stock to better understand the reasons for the relatively low percentage of "for" votes on Say on Pay and held direct conversations with each of these stockholders. The primary focus of these stockholder meetings was to seek specific feedback on executive compensation and review potential changes to existing compensation practices. The feedback received from these participating stockholders was incorporated into the compensation committee's discussion and determination of the changes to executive compensation.

There were several material changes to the Company's executive compensation made by the compensation committee in response to the compensation committee's comprehensive review and best practices, including an amendment to the Company's 2014 Equity Compensation Plan to allow for restricted stock awards to non-employee directors, subject to approval by the Company's stockholders. If the amendment to the Plan is approved by the Company's stockholders, each non-employee director will be awarded 100,000 restricted stock awards annually. These award will be retroactive to directors beginning in 2016.

The non-employee directors who are granted restricted stock under the Amended Plan will gain therefrom ownership in the Company. Therefore, the Board of Directors believes that the Amended Plan will help the Company better achieve the purpose and underlying intent behind the Current Plan through the increased flexibility afforded to the compensation committee and the linking of the recipients' long-term interests to ours in the form of ownership in the Company.

### **Restricted Stock**

Under the Amended Plan, restricted stock grants are awards of common stock subject to vesting restrictions and/or restrictions on transferability. Shares of common stock that are issued as "restricted stock" will have a legend and may not be sold, transferred, or disposed of until the restrictions have lapsed. The shares do have voting rights prior to the vesting thereof and would be entitled to receive dividends if paid by the Company prior to the vesting of the shares. The Board of Directors has broad discretion as to the specific terms and conditions of each award, including applicable rights upon certain terminations of employment and restrictions on the transferability of stock purchased pursuant to stock purchase rights.

### **Vote Required**

The Plan Amendment, because it increases the number of securities issuable under the Current Plan, must be approved by the majority vote of the stockholders in the Company present at the meeting. If the Plan Amendment is approved and adopted, the Amended Plan will become effective upon the approval and adoption thereof. After becoming effective, the Board of Directors may issue to non-employee directors restricted shares from time to time pursuant to the terms and condition of the Amended Plan. In the event the Plan Amendment is not approved and adopted by our stockholders at the annual meeting, the Current Plan will remain in effect.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT STOCKHOLDERS VOTE "FOR" THE APPROVAL OF PROPOSAL 6 AMENDMENT OF THE PROTECTUS EQUITY COMPENSATION PLAN.** Each proxy solicited on behalf of our Board of Directors will be voted *FOR* the approval and adoption of the Plan Amendment unless the stockholder instructs otherwise in the proxy.

## OTHER INFORMATION CONCERNING MANAGEMENT

### Executive Officers

Dr. Wachter serves as our Chief Technology Officer. Information about his business experience is set forth above under the heading, “PROPOSAL 1 – ELECTION OF DIRECTORS – Director Nominees.”

**Timothy C. Scott, Ph.D.**, 59, has served as our President and as a member of our board of directors since we acquired PPI on April 23, 2002. Prior to joining us, Dr. Scott was a senior member of the Photogen management team from 1997 to 2002, including serving as Photogen’s Chief Operating Officer from 1999 to 2002, as a director of Photogen from 1997 to 2000, and as interim CEO for a period in 2000. Before joining Photogen, he served as senior management of Genase LLC, a developer of enzymes for fabric treatment and held senior research and management positions at Oak Ridge National Laboratory. Dr. Scott earned a Ph.D. in Chemical Engineering from the University of Wisconsin–Madison in 1985.

**John R. Glass, CPA**, 73, serves as our Interim Chief Financial Officer (since April 18, 2016). Mr. Glass is the President of J.R. Glass & Associates, a consulting firm he founded in 1990 to assist clients in the financial, operational and marketing segments of their business. In this role, his responsibilities have included, among others, preparation of periodic reports to be filed with the Securities and Exchange Commission and Sarbanes-Oxley compliance documentation. From January 2007 to May 2014, Mr. Glass served as controller for CytoCore, Inc. (OTCBB: CYOE) (now known as Medite Cancer Diagnostics Inc.), a late development stage bio molecular diagnostics company. His prior chief financial officer experience includes serving as Chief Financial Officer of U. S. RealTel, Inc., a publicly traded company in the telecommunications industry, Vice President and Chief Financial Officer of Health Charge Corporation, a financial services company in the health care industry, and Vice President and Chief Financial Officer of Aluminum Distributors, Inc., a metal processor and distributor. He also previously served as Vice President of Fulton Manufacturing Industries, Inc. and as a Manager at Grant Thornton LLP, a registered public accounting firm. Mr. Glass is chairman of the Plan Commission of Elk Grove Village, a member of the Illinois CPA Society and past chairman and member of the board of directors for the Greater O’Hare Service Corporation. He received his B.B.A. in Accounting from Loyola University.

### Appointment of Chief Operations Consultant

On April 19, 2017, the board of directors appointed Bruce Horowitz as the Company’s chief operations consultant. In connection with the engagement of Mr. Horowitz, on April 19, 2017, the Company and Mr. Horowitz entered into an independent contractor agreement (the “Horowitz Agreement”), pursuant to which Mr. Horowitz will serve as the primary business operations consultant of the Company and will perform duties and services including but not limited to designing and implementing new business strategies and plans, and operating processes and procedures; establishing policies to promote a new company culture; overseeing company operations and the work of executives, managers, and staff members; prioritizing and continuing the Company’s search for a Chief Medical Officer and a new Chief Executive Officer; assisting in fundraising activities; and managing certain partner and vendor relationships. In consideration for such services, Mr. Horowitz will be paid \$125 per hour, up to a maximum of \$20,000 in a calendar month. The Company will reimburse Mr. Horowitz for all reasonable and necessary expenses relating to his provision of services under the Agreement. The initial term of the Horowitz Agreement is from April 1, 2017 to June 30, 2017, and thereafter will continue on a month-to-month basis unless terminated by either party upon 30 days prior written notice.

### Code of Ethics

Our board of directors has adopted a code of ethics that applies to our principal executive officer and principal financial officer, or persons performing similar functions. The code of ethics contains written standards that are reasonably designed to deter wrongdoing and to promote: (1) honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;

(2) full, fair, accurate, timely, and understandable disclosure in reports and documents that we file with, or submit to, the SEC and in other public communications made by us; (3) compliance with applicable governmental laws, rules and regulations; (4) the prompt internal reporting of violations of the code to an appropriate person or persons identified in the code; and (5) accountability for adherence to the code. The code of ethics is available without charge upon request from our Secretary, Provectus Biopharmaceuticals, Inc., 7327 Oak Ridge Highway, Suite A, Knoxville, TN 37931.

## **Legal Matters**

### *Class Action Lawsuits*

On May 27, 2014, Cary Farrah and James H. Harrison, Jr., individually and on behalf of all others similarly situated (the “Farrah Case”), and on May 29, 2014, each of Paul Jason Chaney, individually and on behalf of all others similarly situated (the “Chaney Case”), and Jayson Dauphinee, individually and on behalf of all others similarly situated (the “Dauphinee Case”) (the plaintiffs in the Farrah Case, the Chaney Case and the Dauphinee Case collectively referred to as the “Plaintiffs”), each filed a class action lawsuit in the United States District Court for the Middle District of Tennessee against the Company, H. Craig Dees, Timothy C. Scott and Peter R. Culpepper (the “Defendants”) alleging violations by the Defendants of Sections 10(b) and 20(a) of the Exchange Act and Rule 10b-5 promulgated thereunder and seeking monetary damages. Specifically, the Plaintiffs in each of the Farrah Case, the Chaney Case and the Dauphinee Case allege that the Defendants are liable for making false statements and failing to disclose adverse facts known to them about the Company, in connection with the Company’s application to the FDA for Breakthrough Therapy Designation (“BTD”) of the Company’s melanoma drug, PV-10, in the Spring of 2014, and the FDA’s subsequent denial of the Company’s application for BTD.

On July 9, 2014, the Plaintiffs and the Defendants filed joint motions in the Farrah Case, the Chaney Case and the Dauphinee Case to consolidate the cases and transfer them to United States District Court for the Eastern District of Tennessee. By order dated July 16, 2014, the United States District Court for the Middle District of Tennessee entered an order consolidating the Farrah Case, the Chaney Case and the Dauphinee Case (collectively and, as consolidated, the “Securities Litigation”) and transferred the Securities Litigation to the United States District Court for the Eastern District of Tennessee.

On November 26, 2014, the United States District Court for the Eastern District of Tennessee (the “Court”) entered an order appointing Fawwaz Hamati as the Lead Plaintiff in the Securities Litigation, with the Law Firm of Glancy Binkow & Goldberg, LLP as counsel to Lead Plaintiff. On February 3, 2015, the Court entered an order compelling the Lead Plaintiff to file a consolidated amended complaint within 60 days of entry of the order.

On April 6, 2015, the Lead Plaintiff filed a Consolidated Amended Class Action Complaint (the “Consolidated Complaint”) in the Securities Litigation, alleging that Provectus and the other individual defendants made knowingly false representations about the likelihood that PV-10 would be approved as a candidate for BTD, and that such representations caused injury to Lead Plaintiff and other shareholders. The Consolidated Complaint also added Eric Wachter as a named defendant.

On June 5, 2015, Provectus filed its Motion to Dismiss the Consolidated Complaint (the “Motion to Dismiss”). On July 20, 2015, the Lead Plaintiff filed his response in opposition to the Motion to Dismiss (the “Response”). Pursuant to order of the Court, Provectus replied to the Response on September 18, 2015.

On October 1, 2015, the Court entered an order staying a ruling on the Motion to Dismiss pending a mediation to resolve the Securities Litigation in its entirety. A mediation occurred on October 28, 2015. On January 28, 2016, a settlement terms sheet (the “Terms Sheet”) was executed by counsel for the Company and counsel for the Lead Plaintiff in the consolidated Securities Litigation.

Pursuant to the Terms Sheet, the parties agreed, contingent upon the approval of the court in the consolidated Securities Litigation, to settle the cases as a class action on the basis of a class period of December 17, 2013 through May 22, 2014. The Company and its insurance carrier agreed to pay the total amount of \$3.5 million (the “Settlement Funds”), \$1.85 million of which was paid by the Company, and \$1.65 million of which was paid by the insurance carrier directly to the plaintiff’s trust escrow account.

A Stipulation of Settlement encompassing the details of the settlement and procedures for preliminary and final court approval was filed on March 8, 2016. The Stipulation of Settlement incorporates the provisions of the Terms Sheet and includes the procedures for providing notice to stockholders who bought or sold stock of the Company during the class period. The Stipulation of Settlement further provides for (1) the methodology of administering and calculating claims, final awards to stockholders, and supervision and distribution of the Settlement Funds and (2) the procedure for preliminary and final approval of the settlement of the Securities Litigation.

On April 7, 2016, the court in the Securities Litigation held a hearing on preliminary approval of the settlement, entered an order preliminarily approving the settlement, ordered that the class be notified of the settlement as set forth in the Stipulation of Settlement, and set a hearing on September 26, 2016 to determine whether the proposed settlement is fair, reasonable, and adequate to the class; whether the class should be certified and the plan of allocation of the Settlement Funds approved; whether to grant Lead Plaintiff’s request for expenses and Lead Plaintiff’s counsel’s request for fees and expenses; and whether to enter judgment dismissing the Securities Litigation as provided in the Stipulation of Settlement. On September 16, 2016, the Lead Plaintiff notified the court that approximately 6,300 stockholders did not receive notification of the proposed settlement until late August 2016 because of the delayed receipt of potential Settlement Class Member information from a number of brokers. As a result, on September 22, 2016, the parties filed a joint motion requesting that the court extend the deadlines to file a Proof of Claim, request exclusion from the settlement, or file an objection to the settlement, and that the court schedule a continued settlement hearing. The court granted the motion, cancelling the settlement hearing that had been set for September 26 and re-setting the hearing to take place on December 12, 2016. On December 2, 2016, the Lead Plaintiffs’ counsel reported to the court that there have been no requests for exclusion from the settlement and no objections to the proposed settlement. On December 12, 2016, the court held a final hearing on the fairness of the settlement and entered an order approving the settlement and dismissing the action with prejudice.

#### *Dees Collection Lawsuit*

On May 5, 2016, the Company filed a lawsuit in the United States District Court for the Eastern District of Tennessee at Knoxville against Dr. Dees and his wife, Virginia Godfrey (together with Dr. Dees, the “Defendants”). The Company alleges that between 2013 and the present, Dr. Dees received approximately \$2.4 million in advanced or reimbursed travel and entertainment expenses from the Company and that Dr. Dees did not use these funds for legitimate travel and entertainment expenses as he requested and the Company intended. Instead, the Company alleges that Dr. Dees created false receipts and documentation for the expenses and applied the funds to personal use. The Company and Dr. Dees are parties to a Stipulated Settlement Agreement dated June 6, 2014 (the “Kleba Settlement Agreement”) that was negotiated to resolve certain claims asserted against Dr. Dees derivatively. Pursuant to the terms of the Kleba Settlement Agreement, Dr. Dees agreed to repay the Company compensation that was paid to him along with legal fees and other expenses incurred by the Company. As of the date of his resignation, Dr. Dees still owed the Company \$2,267,750 under the Kleba Settlement Agreement. Dr. Dees has failed to make such payment, and the Company has notified him that he is in default and demanded payment in full. Therefore, the Company is alleging counts of conversion, fraud, breach of fiduciary duty, breach of contract, breach of Kleba Settlement Agreement, unjust enrichment and punitive damages in this lawsuit. The Company is seeking that the Defendants be prohibited from disposing of any property that may have been paid for with the misappropriated funds, the Defendants be disgorged of any funds shown to be fraudulently misappropriated and that the Company be awarded compensatory damages in an amount not less than \$5 million. Furthermore, the Company is seeking for the damages to be joint and several as



to the Defendants and that punitive damages be awarded against Dr. Dees in the Company's favor. The Company is also seeking foreclosure of the Company's first-priority security interest in the 1,000,000 shares of common stock granted by Dr. Dees to the Company as collateral pursuant to that certain Stock Pledge Agreement dated October 3, 2014, between Dr. Dees and the Company in order to secure Dr. Dees' obligations under the Kleba Settlement Agreement. The United States District Court for the Eastern District of Tennessee at Knoxville entered a default judgment against the Defendants on July 20, 2016; however, the Company cannot predict when these shares will be recovered by the Company. The Court recently issued a Temporary Restraining Order upon the Company's application for same upon notice that Dr. Dees was attempting to sell his shares of the Company's common stock. The Temporary Restraining Order was converted to a Preliminary Injunction on September 16, 2016, which order will remain in place until the resolution of the underlying lawsuit absent further court order or agreement of the parties, and the Company is presently engaged in discovery regarding damages. On March 15, 2017, the Court granted Ms. Godfrey's motion to set aside the default judgment against her and set a deadline of March 30, 2017 for Ms. Godfrey to file an answer to the Company's complaint. The Court also set the hearing date to determine damages with respect to the motion for default judgment against Dr. Dees for April 26, 2017.

#### *Culpepper Travel Expenses and Related Collection Efforts*

On December 27, 2016, the Company's board of directors unanimously voted to terminate Peter R. Culpepper, effective immediately, from all positions he held with the Company and each of its subsidiaries, including Interim Chief Executive Officer and Chief Operating Officer of the Company, for cause, in accordance with the terms of the Amended and Restated Executive Employment Agreement entered into by Peter R. Culpepper and the Company on April 28, 2014 (the "Culpepper Employment Agreement") based on the results of the investigation conducted by a Special Committee of the board of directors regarding improper travel expense advancements and reimbursements to Mr. Culpepper.

The Special Committee retained independent counsel and an advisory firm with forensic accounting expertise to assist the Special Committee in conducting the investigation. The Special Committee found that Mr. Culpepper received \$294,255 in travel expense reimbursements and advances that were unsubstantiated. The Company seeks to recover from Mr. Culpepper the entire \$294,255 in unsubstantiated travel expense reimbursements and advances, as well as all attorney's fees and auditors'/experts' fees incurred by the Company in connection with the examination of his travel expense reimbursements.

Under the terms of the Culpepper Employment Agreement, Mr. Culpepper is owed no severance payments as a result of his termination "For Cause" as that term is defined in the Culpepper Employment Agreement. Under section 6 of the Culpepper Employment Agreement, "Effect of Termination," a termination "For Cause" terminates any payments due to Mr. Culpepper as of the last day of his employment. Furthermore, Mr. Culpepper is no longer entitled to the 2:1 credit under the Kleba Settlement Agreement, such that the total \$2,240,000 owed by Mr. Culpepper pursuant to the Kleba Settlement Agreement plus Mr. Culpepper's proportionate share of the litigation cost in the amount of \$227,750 less the amount that he repaid as of December 31, 2016 is immediately due and payable. The Company sent Mr. Culpepper a notice of default in January 2017 for the total amount he owes the Company and intends to resolve these claims pursuant to the alternative dispute resolution provision of the Culpepper Employment Agreement. The Company has established a reserve of \$2,051,083 as of December 31, 2016, which amount represents the amount the Company currently believes Mr. Culpepper owes to the Company, while the Company pursues collection of this amount.

Mr. Culpepper disputes that he was terminated "for cause" under the Culpepper Employment Agreement and Mr. Culpepper has demanded this issue be resolved by mediation in accordance with the Culpepper Employment Agreement. The Company is in the process of responding to Mr. Culpepper's demand. Concurrently, the Company is seeking from Mr. Culpepper immediate payment of amounts due under the Kleba Settlement Agreement as noted above.

### *The Bible Harris Smith Lawsuit*

On November 17, 2016, the Company filed a lawsuit in the Circuit Court for Knox County, Tennessee against Bible Harris Smith PC (BHS) for professional negligence, common law negligence and breach of fiduciary duty arising from accounting services provided by BHS to the Company. The Company alleges that between 2013 and the present, Dr. Dees received approximately \$2.4 million in advanced or reimbursed travel and entertainment expenses from the Company and that Dr. Dees did not submit back-up documentation in support of substantially all of the advances he received purportedly for future travel and entertainment expenses. The Company further alleges that had BHS provided competent accounting and tax preparation services, it would have discovered Dr. Dees's failure to submit back-up documentation supporting the advanced travel funds at the inception of Dr. Dees's conduct, and prevented the misuse of these and future funds. The Company has made a claim for damages against BHS in an amount in excess of \$3 million. The Complaint against BHS has been filed and served, an answer has been received and the parties have begun discovery.

### *Other Regulatory Matters*

From time to time the Company receives subpoenas and/or requests for information from governmental agencies with respect to our business. We have received a subpoena from the staff of the SEC related to the travel expense advancements and reimbursements received by H. Craig Dees, our former Chief Executive Officer, and we have received a subsequent subpoena from the staff of the SEC related to the travel expense advancements and reimbursements received by Peter R. Culpepper, our former Interim Chief Executive Officer and Chief Operating Officer and former Chief Financial Officer. At this time, the staff's investigation into these matters remains ongoing. The Company is cooperating with the staff but cannot predict with any certainty what the outcome of the foregoing may be.

## OTHER MATTERS

As of the date hereof, our board of directors knows of no business that will be presented at the meeting other than the proposals described in this Proxy Statement. If any other proposal properly comes before the stockholders for a vote at the meeting, the proxy holders will vote the shares of common stock represented by proxies that are submitted to us in accordance with their best judgment.

## ADDITIONAL INFORMATION

### Solicitation of Proxies

We will solicit proxies on behalf of our board of directors by mail, telephone, facsimile, or other electronic means or in person. We have retained Morrow Sodali LLC to assist us in the solicitation of proxies for the annual meeting. Morrow Sodali LLC will receive a base fee of \$6,000, plus reasonable expenses and fees, for these services. We will pay the proxy solicitation costs. We will supply copies of the proxy solicitation materials to brokerage firms, banks, and other nominees for the purpose of soliciting proxies from the beneficial owners of the shares of common stock held of record by such nominees. We request that such brokerage firms, banks, and other nominees forward the proxy solicitation materials to the beneficial owners, and we will reimburse them for their reasonable expenses.

### Mailing Address of Principal Executive Office

The mailing address of our principal executive office is Provectus Biopharmaceuticals, Inc., 7327 Oak Ridge Highway, Suite A, Knoxville, Tennessee 37931.

### Stockholder Proposals for Inclusion in Proxy Statement for 2018 Annual Meeting of Stockholders

To be considered for inclusion in our proxy statement for the 2018 Annual Meeting of Stockholders, a stockholder proposal must be received by us no later than the close of business on December 28, 2017. Stockholder proposals must be sent to Secretary, Provectus Biopharmaceuticals, Inc., 7327 Oak Ridge Highway, Knoxville, Tennessee 37931. We will not be required to include in our proxy statement any stockholder proposal that does not meet all the requirements for such inclusion established by the SEC's proxy rules and Delaware corporate law.

### Other Stockholder Proposals for Presentation at the 2018 Annual Meeting of Stockholders

In addition to the above, our bylaws contain an advance notice provision requiring that, if a stockholder's proposal is to be brought before and considered at the 2018 Annual Meeting of Stockholders, such stockholder must provide timely written notice thereof to our Secretary. In order to be timely, the notice must be delivered to or mailed and received by our Secretary at our principal executive offices not earlier than the close of business on December 28, 2017 and not later than the close of business on January 27, 2018; provided, however, that in the event the date of the 2018 Annual Meeting is more than 30 days before or more than 30 days after the anniversary of the 2018 Annual Meeting, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the 90th day prior to the date of such 2018 Annual Meeting and not later than the close of business on the later of the 60th day prior to the date of such 2018 Annual Meeting or the 10th day following the day on which public announcement of the date of such annual meeting is first made by us. In the event a stockholder proposal intended to be presented for action at the 2018 Annual Meeting is not received timely, then the persons designated as proxies in the proxies solicited by the board of directors in connection with the 2018 Annual Meeting will be permitted to use their discretionary voting authority with respect to the proposal, whether or not the proposal is discussed in the Proxy Statement for the 2018 Annual Meeting.

By Order of our board of directors



TIMOTHY C. SCOTT  
President

Knoxville, Tennessee  
April 27, 2017

## APPENDIX A

### 2017 AMENDMENT AND RESTATEMENT OF THE PROVECTUS BIOPHARMACEUTICALS, INC. 2014 EQUITY COMPENSATION PLAN

COMES NOW, Provectus Biopharmaceuticals, Inc. a Delaware Corporation (the “Company”), to amend and restate the Provectus Biopharmaceuticals, Inc. 2014 Equity Compensation Plan (the “Plan”) effective \_\_\_\_\_, 2017.

#### 1. PURPOSE

The purpose of the Plan is to promote the interests of the Company, its Affiliates and Subsidiaries and its stockholders by (i) attracting and retaining key officers, employees, and directors of the Company and its Subsidiaries and Affiliates; (ii) motivating such individuals by means of performance-related incentives to achieve long-range performance goals; (iii) enabling such individuals to participate in the long-term growth and financial success of the Company; (iv) encouraging ownership of stock in the Company by such individuals; and (v) linking their compensation to the long-term interests of the Company and its stockholders.

#### 2. DEFINITIONS

As used in the Plan, the following terms shall have the meanings set forth below:

“**Affiliate**” of any Person means a Person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the first mentioned Person. A Person shall be deemed to control another Person if such first Person possesses directly or indirectly the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, by contract or otherwise.

“**Award**” means any form of Option or Stock Award granted under the Plan, whether singly, in combination, or in tandem, to a Participant by the Committee pursuant to terms, conditions, restrictions and limitations, if any, as the Committee may establish by the Grant Instrument or otherwise.

“**Code**” means the Internal Revenue Code of 1986, as amended from time to time.

“**Common Stock**” means shares of common stock, par value \$.001, of the Company.

“**Director**” means a member of the Board of Directors of the Company.

“**Disability**” means a Participant’s becoming disabled within the meaning of Section 22(e)(3) of the Code.

“**Employed by the Company**” means employed by the Company or a Subsidiary as an employee and reflected as such on the Company’s or the Subsidiary’s payroll records (so that, for purposes of exercising Options, a Participant shall not be considered to have terminated employment until the Participant ceases to be an Employee).

“**Employee**” means a current or prospective officer or employee (including employees who are also Directors) of the Company or of any Subsidiary or Affiliate.

“**Fair Market Value**” means, (i) if the Outstanding Common Stock is publicly traded, (x) if the principal trading market for the Company’s Outstanding Common Stock is a national securities exchange or the Nasdaq National Market, the last reported sale price thereof on the relevant date or, if there were no trades on that date, the latest preceding date upon which a sale was reported, or (y) if the Company’s Outstanding Common Stock is not principally traded on such exchange or market, the mean between the last reported “bid” and “asked” prices of the Outstanding Common Stock on the relevant date, as reported on Nasdaq or, if not so reported, as reported by the National Daily Quotation Bureau, Inc. or as reported in a customary financial reporting service, as applicable and as the Committee determines; or (ii) if the

Company's Outstanding Common Stock is not publicly traded or, if publicly traded, not subject to reported transactions or "bid" or "asked" quotations as set forth above, the Fair Market Value of an Option shall be as determined in good faith by the Committee consistent with the requirements of Treas. Reg. Section 1.409A-1(b)(5)(iv)(B).

**"Grant Instrument"** means the written agreement, contract or other instrument or document evincing any Award and setting forth the terms and conditions of such Award granted under the Plan, provided such terms and conditions are consistent with the Plan as the Committee deems appropriate.

**"Incentive Stock Option"** means an option to purchase shares of Common Stock that is granted under Section 7 of the Plan and that is intended to meet the requirements of Section 422 of the Code or any successor provision thereto.

**"Non-Qualified Stock Option"** means an option to purchase shares of Common Stock from the Company that is granted under Sections 7 or 8 and is not intended to be an Incentive Stock Option.

**"Non-Employee Director"** means a member of the Board who is not an officer or employee of the Company or any Subsidiary or Affiliate.

**"Option"** means an Incentive Stock Option or a Non-Qualified Stock Option.

**"Participant"** means "means any individual to whom an Award has been granted by the Board under this Plan.

**"Person"** means any individual, corporation, partnership, limited liability company, association, joint-stock company, trust, unincorporated organization, government or political subdivision thereof or other entity.

**"Restricted Stock"** means a share of Common Stock subject to restrictions, as the Board may determine in accordance with Section 9.

**"Stock Award"** means an Award granted pursuant to Section 9 in the form of shares of Common Stock or restricted shares of Common Stock.

**"Subsidiary"** means any Person (other than the Company) of which a majority of its voting power or its equity securities or equity interest is owned directly or indirectly by the Company.

**"Termination for Cause"** means a finding by the Committee that (i) Participant committed a material breach of his or her employment agreement and failed to cure that breach, or to discontinue the activity that breached his or her employment agreement, within 30 days after being notified by the Company that failure to cure the breach or to discontinue the breaching activity would result in termination for Cause, or (ii) Participant was convicted of a crime involving moral turpitude, including such acts as fraud or dishonesty, or (iii) Participant committed a felony, or (iv) Participant willfully or recklessly refused to perform the material duties reasonably assigned to him or her by the Company's Board or the Participant's supervisor when such willful or reckless refusal did not result from a Disability, or (v) Participant's willful or gross malfeasance or nonfeasance of the material duties reasonably assigned to him or her by the Company's Board or the Participant's supervisor that are consistent with the provisions of his or her employment agreement (or if there is no employment agreement, with his or her assigned responsibilities), when such malfeasance or nonfeasance did not result from a Disability.

### 3. ADMINISTRATION

- (a) The Plan will be administered by the Board or a committee established by the Board (the Board acting in such capacity or such committee, if and as established by the Board, hereinafter referred to as the "Committee"). The Plan shall be administered by the Board unless and until the Board delegates administration to the Committee. If administration is delegated to a Committee, the Committee shall have, in connection with the administration of the Plan, the powers theretofore possessed by the Board, subject, however, to such resolutions, not inconsistent with the provisions of the Plan, as may be

adopted from time to time by the Board. The Board may abolish the Committee at any time and revert in the Board the administration of the Plan. Whether or not the Board has delegated administration, and notwithstanding anything to the contrary contained herein, the Board shall have the final power to determine all questions of policy and expediency that may arise in the administration of the Plan.

- (b) The Committee shall have the sole authority to (i) determine the individuals to whom Awards shall be granted under the Plan, (ii) determine the type (or types) and the terms of the Awards to be granted to each such individual, (iii) determine the time when the Awards will be granted and (iv) deal with any other matters arising under the Plan. All matters determined by the Committee shall require a majority vote of the Committee.
- (c) The Committee shall have full power and authority to administer and interpret the Plan, to make factual determinations and to adopt or amend such rules, regulations, agreements and instruments for implementing the Plan and for the conduct of its business as it deems necessary or advisable, in its sole discretion. The Committee's interpretations of the Plan and all determinations made by the Committee pursuant to the powers vested in it hereunder shall be conclusive and binding on all Persons having any interest in the Plan or in any Awards granted hereunder. All powers of the Committee shall be executed in its sole discretion, in the best interest of the Company, not as a fiduciary, and in keeping with the objectives of the Plan and need not be uniform as to similarly situated individuals.
- (d) No member of the Committee or the Board shall be liable for any action or determination made in good faith, and all members of the Committee or the Board shall, in addition to their rights as directors, be fully protected by the Company with respect to any such action, determination or interpretation.
- (e) All decisions made by the Committee or the Board pursuant to the provisions hereof shall be final and binding on all Persons.
- (f) If no Committee is established by the Board, then all rights, duties and responsibilities designated under this Plan to the "Committee" shall remain with the Board and all references in this document to the "Committee" shall be deemed to be the "Board".

#### **4. OPTIONS; GRANT INSTRUMENTS**

- (a) Each Option granted under the Plan shall be classified as a Non-Qualified Stock Option or an Incentive Stock Option. All Options shall be subject to the terms and conditions set forth herein and to such other terms and conditions consistent with the Plan as set forth in the Grant Instrument, or an amendment to a Grant Instrument. The Committee shall approve the form and provisions of each Grant Instrument.
- (b) The granting of any Option shall be subject to and conditioned upon the recipient's execution of the Grant Instrument and any other agreements or instruments required by the Committee. Except as otherwise provided in a Grant Instrument, all capitalized terms used in the Grant Instrument shall have the same meaning as in the Plan, and the Grant Instrument shall be subject to all of the terms of the Plan.
- (c) Each Grant Instrument shall contain such provisions as the Committee shall determine, in its sole discretion, to be necessary, desirable and appropriate for the Options granted which may include, but not necessarily be limited to, the following: (i) description of the type of Option, the Option's duration, its transferability, the exercise price, the exercise period and vesting schedule, the effect upon the Option of the Employee's death, disability, change in duties or termination of employment; (ii) the Option's conditions; (iii) when, if and how any Option may be forfeited, converted into another Option, modified, exchanged for another Option, or replaced; and (iv) the restrictions on any Common Stock purchased or granted under the Plan.
- (d) In the event of any inconsistency between the provisions of the Plan and any Grant Instrument, the provisions of the Plan shall govern.

## 5. AWARDS SUBJECT TO THE PLAN

The aggregate number of Awards that may be issued under the Plan shall be equal to 20 Million, which number of Awards represents eleven percent (11%) of the issued and outstanding Common Stock as of the Effective Date of this Plan (the “Outstanding Common Stock”). Any Common Stock delivered pursuant to an Award of Restricted Stock or the exercise of an Option may consist, in whole or in part, of authorized but unissued Common Stock or reacquired Common Stock. If and to the extent Awards granted under the Plan terminate, expire, or are canceled, forfeited, exchanged or surrendered, the Awards shall again be available for purposes of the Plan.

## 6. ELIGIBILITY FOR PARTICIPATION

- (a) Any Employee or Director shall be eligible to participate in the Plan; provided, however, that Non-Employee Directors shall only be eligible to receive Awards of Non-Qualified Stock Options granted consistent with Section 8 or Awards of Restricted Stock granted consistent with Section 9.
- (b) The Committee shall select the Employees and Directors to receive the Awards (“Participants”) and shall determine the number of the Awards subject to a particular grant in such manner as the Committee determines.

## 7. GRANTING OF OPTIONS

- (a) Number of Options. The Committee shall determine the number of Options that will be subject to each grant of Options to Participants.
- (b) Type of Option and Price.
  - (i) Type of Options. The Committee shall have the authority to grant Non-Qualified Stock Options and Incentive Stock Options. In the case of Incentive Stock Options, the terms and conditions of such grants shall be subject to and comply with such rules as may be prescribed by Section 422 of the Code, as from time to time amended, and any regulations implementing such statute. A person who has been granted an Option under this Plan may be granted additional Options under the Plan if the Committee shall so determine; provided, however, that to the extent the aggregate Fair Market Value (determined at the time the Incentive Stock Option is granted) of the shares of Common Stock with respect to which all Incentive Stock Options are exercisable for the first time by an Employee during any calendar year (under all plans described in subsection (d) of Section 422 of the Code of the Employee’s employer corporation and its parent and Subsidiaries) exceeds \$100,000, such Options shall be treated as Non-Qualified Stock Options.
  - (ii) Exercise Price. The purchase price (the “Exercise Price”) of the shares issuable on exercise of an Option shall be as set forth in the Participant’s Grant Instrument. Notwithstanding the foregoing, in no event shall the Exercise Price be less than the Fair Market Value of the Common Stock determined as of the date of grant.
- (c) Option Term. Subject to Section 7(g), the Committee shall determine the term of each Option. The term of any Option shall not exceed ten years from the date of grant.
- (d) Exercisability of Options. Options shall become exercisable in accordance with such terms and conditions, consistent with the Plan, as may be determined by the Committee and specified in the Grant Instrument or an amendment to the Grant Instrument. The Committee may accelerate the exercisability of any or all outstanding Options at any time for any reason. The exercise of any Option granted hereunder shall be effective only at such time as the sale of Common Stock pursuant to such exercise will not violate any state or federal securities or other laws.
- (e) Termination of Employment, Disability or Death.
  - (i) Except for options to purchase shares of Common Stock from the Company that are granted under Section 8 and as otherwise provided below, an Option may only be exercised while the Participant

is Employed by the Company as an Employee. In the event that a Participant ceases to be employed by, or provide service to, the Company for any reason other than Disability, death, or Termination for Cause, any Option which is otherwise exercisable by the Participant shall terminate unless exercised within 90 days of the date on which the Participant ceases to be Employed by the Company (or, for Non-Qualified Stock Options, within such other period of time as may be specified by the Committee), but in any event no later than the date of expiration of the Option term. Unless otherwise specified by the Committee, any of the Participant's Options that are not otherwise exercisable as of the date on which the Participant ceases to be Employed by the Company shall terminate as of such date.

- (ii) In the event the Participant ceases to be Employed by the Company on account of a Termination for Cause by the Company, any Option held by the Participant shall terminate as of the date the Participant ceases to be Employed by the Company.
  - (iii) In the event the Participant ceases to be employed by, or provide service to, the Company because the Participant is Disabled, any Option which is otherwise exercisable by the Participant shall terminate unless exercised within one year after the date on which the Participant ceases to be Employed by the Company (or, for Non-Qualified Stock Options, within such other period of time as may be specified by the Committee), but in any event no later than the date of expiration of the Option term. Any of the Participant's Options which are not otherwise exercisable as of the date on which the Participant ceases to be Employed by the Company shall terminate as of such date.
  - (iv) If the Participant dies while Employed by the Company, any Option that is otherwise exercisable by the Participant shall terminate unless exercised within one year after the date on which the Participant dies (or within such other period of time as may be specified by the Committee), but in any event no later than the date of expiration of the Option term. Any of the Participant's Options that are not otherwise exercisable as of the date on which the Participant dies shall terminate as of such date.
- (f) Exercise of Options. A Participant may exercise an Option that has become exercisable at such times and subject to such terms and conditions as specified in the applicable Grant Instrument, in whole or in part, by delivering a notice of exercise to the Company with payment of the Exercise Price. The Participant shall pay the Exercise Price for an Option (i) in cash or cash equivalents, (ii) by delivering Common Stock owned by the Participant (including Common Stock acquired in connection with the exercise of an Option, subject to such restrictions as the Committee deems appropriate) and having a Fair Market Value on the date of exercise (or next succeeding trading date, if the date of exercise is not a trading date) equal to the Exercise Price, together with any applicable withholding taxes, or (iii) by such other method as the Committee may approve, including payment through a broker in accordance with procedures permitted by Regulation T of the Federal Reserve Board. Common Stock used to exercise an Option shall have been held by the Participant for the requisite period of time to avoid adverse accounting consequences to the Company with respect to the Option. The Participant shall pay the Exercise Price and the amount of any withholding tax due (pursuant to Section 9) at the time of exercise. Options shall not be issued upon exercise of an Option until the Exercise Price is fully paid and any required withholding is made.
- (g) Ten Percent Stock Rule. Notwithstanding any other provisions in the Plan, if at the time an Option is otherwise to be granted pursuant to the Plan, the Participant owns directly or indirectly (within the meaning of Section 424(d) of the Code) shares of Common Stock possessing more than ten percent (10%) of the total combined voting power of all classes of capital stock of the Company or its parent or Subsidiary or Affiliate corporations (within the meaning of Section 422(b)(6) of the Code), then any Incentive Stock Option to be granted to such Participant pursuant to the Plan shall satisfy the requirement of Section 422(c)(5) of the Code, and the Exercise Price shall be not less than one hundred ten percent (110%) of the Fair Market Value of the shares of Common Stock, and such Option by its terms shall not be exercisable after the expiration of five (5) years from the date such Option is granted.



## 8. NON-EMPLOYEE DIRECTOR OPTIONS

The Board may provide that all or a portion of a Non-Employee Director's annual retainer, meeting fees and/or other awards or compensation as determined by the Board, be payable (either automatically or at the election of a Non-Employee Director) in the form of Non-Qualified Stock Options. The Board shall determine the terms and conditions of any such Options, including the terms and conditions which shall apply upon a termination of the Non-Employee Director's service as a Director, and shall have full power and authority in its discretion to administer such Options, subject to the terms of the Plan and applicable law.

## 9. RESTRICTED STOCK AWARDS.

- (a) Grants. Awards may be granted in the form Restricted Stock. Restricted Stock Awards shall be awarded in such numbers and at such times during the term of the Plan as the Board shall determine and shall be made in actual shares of Common Stock.
- (b) Award Restrictions. Restricted Stock shall be subject to terms, conditions, restrictions, and limitations, if any, the Board deems appropriate including, without limitation, restrictions on transferability and continued employment of the Participant. The Board also shall determine any qualified performance measures or other conditions, if any, that must be satisfied before all or part of the applicable restrictions lapse. The Board may, at its discretion, waive all or any part of the restrictions applicable to any or all outstanding Restricted Stock Awards.
- (c) Rights as Shareholder. During the period in which any restricted shares of Common Stock are subject to restrictions imposed pursuant to Section 9(b), the Participant to whom restricted shares have been awarded shall generally have the rights and privileges of a stockholder as to such Common Stock, including the right to receive dividends and the right to vote such shares, subject to the following restrictions: (i) the Participant shall not be entitled to delivery of the stock certificate until the expiration of the restricted period and the fulfillment of any other restrictive conditions set forth in the Grant Instrument with respect to such Common Stock; (ii) none of the Common Stock represented by the Award may be sold, assigned, transferred, pledged, hypothecated or otherwise encumbered or disposed of during such restricted period or until after the fulfillment of any such other restrictive conditions; and (iii) except as otherwise determined by the Board at or after grant, all of the shares of Common Stock subject to the Award shall be forfeited and all rights of the Participant to such Common Stock shall terminate, without further obligation on the part of the Company, unless the Participant remains in the continuous employment of the Company for the entire restricted period in relation to which such shares of Common Stock were granted and unless any other restrictive conditions relating to the Restricted Stock Award are met. Unless otherwise provided in the applicable Grant Instrument, any shares of Common Stock, any other securities of the Company and any other property (except for cash dividends) distributed with respect to the Common Stock subject to restricted Stock Awards shall be subject to the same restrictions, terms and conditions as such Restricted Stock Award, including the right to vote such Common Stock. Cash dividends with respect to the Common Stock subject to a Restricted Stock Award shall be currently paid to the Participant.
- (d) Evidence of Award. Subject to Section 9(e), any Restricted Stock Award granted under the Plan shall be evidenced by issuance of a stock certificate or certificates or, in the discretion of the Board, through issuance of instructions to the Company's transfer agent to issue the shares of Common Stock subject to the Award in book-entry (uncertificated) form on the books and records of the transfer agent through the Direct Registration System ("DRS") or any successor system.
- (e) Delivery of Shares and Transfer Restrictions. Upon issuance of a certificate evidencing a Restricted Stock Award, such certificate shall be held by the Company or any custodian appointed by the Company for the account of the Participant subject to the terms and conditions of the Plan, and shall bear such a legend setting forth the restrictions imposed thereon as the Board, in its discretion, may determine. Unless otherwise provided in the applicable Grant Instrument, the Participant shall have all rights of a stockholder with respect to the Restricted Stock, except as restricted, as provided in

Section 9(c). Upon the issuance of a Restricted Stock Award in book entry form, the Company's transfer agent shall be apprised of and shall duly note any restrictions such as those set forth above that are applicable to the restricted Stock Award.

- (f) Termination of Restrictions. At the end of the restricted period and provided that any other restrictive conditions of the Restricted Stock Award are met, or at such earlier time as otherwise determined by the Board, all restrictions set forth in the Grant Instrument relating to the Restricted Stock Award or in the Plan shall lapse as to the restricted shares of Common Stock subject thereto, and either: (i) a stock certificate for the appropriate number of shares of Common Stock, free of the restrictions and restricted stock legend, shall be delivered to the Participant or the Participant's beneficiary or estate, as the case may be; or (ii) in the event the Stock Award was evidenced in book entry form, the Company's transfer agent shall be notified of the lapse and or termination of the restrictions and to remove all references thereto in its books and records.
- (g) Termination of Employment, Disability or Death. In the event that a Participant ceases to be employed by, or provide service to, the Company for any reason other than Disability, death, or Termination without Cause, any unvested Restricted Stock Award held by the Participant shall terminate and be forfeit as of the date the Participant ceases to be Employed by the Company.
- (h) Termination without Cause. In the event the Participant ceases to be Employed by the Company on account of a Termination without Cause by the Company, any unvested Restricted Stock Award held by the Participant shall become 100% vested as of the date the Participant ceases to be Employed by the Company.
- (i) Disability or Death. In the event the Participant ceases to be employed by, or provide service to, the Company because the Participant is Disabled or dies, any unvested Restricted Stock Award shall become 100% vested as of the date the Participant ceases to be Employed by the Company.

## 10. WITHHOLDING OF TAXES

- (a) Required Withholding. All Awards under the Plan shall be granted subject to any applicable federal (including applicable FICA), state and local tax withholding requirements. The Company shall have the right to deduct from wages paid to the Participant any federal, state or local taxes required by law to be withheld with respect to Awards, or the Company may require the Participant or other Person receiving such awards to pay to the Company the amount of any such taxes that the Company is required to withhold.
- (b) Election to Withhold Options. If the Committee so permits, a Participant may elect to satisfy the Company's income tax withholding obligation with respect to Options by having Common Stock purchased by exercise of such Options withheld, based on their Fair Market Value when they are withheld, up to an amount that does not exceed the Participant's maximum marginal tax rate for federal (including FICA), state and local tax liabilities. The election must be in a form and manner prescribed by the Committee and shall be subject to the prior approval of the Committee.

## 11. CHANGE OF CONTROL OF THE COMPANY

- (a) As used herein, a "Change of Control" shall be deemed to have occurred if:
  - (i) After the Effective Date, any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) becomes a "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing a majority of the voting power of the then outstanding securities of the Company entitled to vote generally with respect to the election of the Board;
  - (ii) as a result of or in connection with a tender or exchange offer or contest for election of directors, individual board members of the Company (identified as of the date of commencement of such tender or exchange offer, or the commencement of such election contest, as the case may be) cease to constitute at least a majority of the Board; or

- (iii) the consummation of a merger, consolidation or reorganization with or into the Company or the sale of substantially all of the Company's assets, unless (x) the stockholders of the Company immediately before such transaction beneficially own, directly or indirectly, immediately following such transaction, securities representing a majority of the combined voting power of the then outstanding securities entitled to vote generally with respect to the election of the Board (or its successor) and (y) individual board members of the Company (identified as of the date that a binding agreement providing for such transaction is signed) constitute at least a majority of the Board (or its successor) (a transaction to which clauses (x) and (y) apply, a "Non-Control Transaction").
- (b) Upon a Change of Control, unless the Committee determines otherwise, (i) the Company shall provide each Participant with outstanding Awards written notice of such Change of Control and (ii) all outstanding Awards shall automatically accelerate and become fully vested and exercisable, as applicable.
- (c) Notwithstanding anything in the Plan to the contrary, in the event of a Change of Control, the Committee shall not have the right to take any actions described in the Plan that would make the Change of Control ineligible for desired tax treatment if, in the absence of such right, the Change of Control would qualify for such treatment and the Company intends to use such treatment with respect to the Change of Control.

## 12. ADJUSTMENTS UPON CHANGE OF CAPITALIZATION

Subject to any required action by our stockholders, the number of shares of Common Stock covered by outstanding Awards, and the number of shares of Common Stock which have been authorized for issuance under the Plan but as to which no Award has been granted or which have been returned to the Plan upon cancellation or expiration of an Award, as well as the Exercise Price, as applicable, will be proportionately adjusted for any increase or decrease in the number of issued shares of Common Stock resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Common Stock, or any other increase or decrease in the number of issued shares of Common Stock effected without receipt of consideration by us.

## 13. AMENDMENT AND TERMINATION OF THE PLAN

- (a) Amendment. The Committee may amend or terminate the Plan at any time, provided however, that the Committee cannot increase the number of Options or Stock Awards that may be issued under the Plan without the majority vote of the Board and by a majority vote of the stockholders of the Company.
- (b) Termination of Plan. The Plan shall terminate on the day immediately preceding the tenth anniversary of the Effective Date unless terminated earlier or extended by the majority vote of the Board and approval by a majority vote of the stockholders of the Company.
- (c) Termination and Amendment of Outstanding Options. A termination or amendment of the Plan that occurs after an Award is granted shall not materially impair the rights of a Participant unless the Participant consents or unless the Committee acts under Section 19(a) of the Plan. The termination of the Plan shall not impair the power and authority of the Committee with respect to an outstanding Award. Whether or not the Plan has terminated, an outstanding Award may be terminated or modified under Section 19(a) of the Plan or may be amended by agreement of the Company and the Participant consistent with the Plan.
- (d) Governing Document. The Plan shall be the controlling document. No other statements, representations, explanatory materials or examples, oral or written, may amend the Plan in any manner. The Plan shall be binding upon and enforceable against the Company and its successors and assigns.

#### **14. FUNDING OF THE PLAN**

This Plan shall be unfunded. The Company shall not be required to establish any special or separate fund or to make any other segregation of assets to assure the payment of any Awards under this Plan. In no event shall interest be paid or accrued on any Awards.

#### **15. RIGHTS OF PARTICIPANTS**

Nothing in this Plan shall entitle any Participant to any claim or right to be granted an Option under this Plan. Neither this Plan nor any action taken hereunder shall be construed as giving any individual any rights to be retained by or in the employ of the Company or any other employment rights.

#### **16. REQUIREMENTS FOR ISSUANCE OF AWARDS**

No Award shall be issued or transferred hereunder unless and until all legal requirements applicable to the issuance or transfer of such Awards have been complied with to the satisfaction of the Committee. The Committee shall have the right to condition any Awards granted to any Participant hereunder, or the issuance of shares on exercise of any Options, on such Participant's undertaking in writing to comply with such restrictions on his or her subsequent disposition of such Awards or shares as the Committee shall deem necessary or advisable as a result of any applicable law, regulation or official interpretation thereof and certificates representing such shares may be legended to reflect any such restrictions.

#### **17. HEADINGS**

Section headings are for reference only. In the event of a conflict between a title and the content of a Section, the content of the Section shall control.

#### **18. EFFECTIVE DATE OF THE PLAN**

This Plan was originally effective on April 26, 2013 (the "Effective Date").

#### **19. MISCELLANEOUS**

- (a) Compliance with Law. The Plan, the grant of Awards, and the obligations of the Company to issue or transfer shares shall be subject to all applicable laws and to approvals by any governmental or regulatory agency as may be required. The Committee may revoke any grant of an Award if it is contrary to law or modify a grant of an Award to bring it into compliance with any valid and mandatory government regulation. The Committee may also adopt rules regarding the withholding of taxes on payments to Participants. The Committee may, in its sole discretion, agree to limit its authority under this Section.
- (b) Governing Law. The validity, construction, interpretation and effect of the Plan and Grant Instruments issued under the Plan shall exclusively be governed by and determined in accordance with the law of the State of Delaware.
- (c) No Rights as Stockholder for Option Holders. Subject to the provisions of the Plan and the applicable Grant Instrument, no Participant or holder or beneficiary of any Option shall have any rights as a stockholder with respect to any Common Stock to be distributed under the Plan until such Person has become a holder of such Common Stock.
- (d) Severability. If any provision of the Plan or any Award is, or becomes, or is deemed to be invalid, illegal or unenforceable in any jurisdiction or as to any Participant or Award, or would disqualify the Plan or any Award under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to the applicable laws, or if it cannot be construed or deemed amended without, in the determination of the Committee, materially altering the intent of the Plan or the Award, such provision shall be stricken as to such jurisdiction, Participant or Award and the remainder of the Plan and any such Award shall remain in full force and effect.



**2017 ANNUAL MEETING OF STOCKHOLDERS  
TO BE HELD ON MAY 30, 2017**

**THIS PROXY IS SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS**

The 2017 Annual Meeting of Stockholders of Provectus Biopharmaceuticals, Inc., a Delaware corporation (the "Company"), will be held at the offices of PYA, PC, located at 2220 Sutherland Avenue, Knoxville, Tennessee 37919, on Tuesday, May 30, 2017, beginning at 4:00 p.m. Eastern Time. The undersigned hereby acknowledges receipt of the combined Notice of 2017 Annual Meeting of Stockholders and Proxy Statement, dated April 27, 2017, accompanying this proxy, to which reference is hereby made for further information regarding the meeting and the matters to be considered and voted on by the stockholders at the meeting.

The undersigned hereby appoints Timothy C. Scott, Ph.D. and Eric A. Wachter, Ph.D., and each of them, attorneys as agent, with full power of substitution, to vote as proxy all shares of common stock of the Company owned of record by the undersigned as of the record date and otherwise to act on behalf of the undersigned at the meeting and any postponement or adjournment thereof, in accordance with the instructions set forth herein and with discretionary authority with respect to any other business, not known or determined at the time of the solicitation of this proxy, that properly comes before such meeting or any postponement or adjournment thereof.

The undersigned hereby revokes any proxy heretofore given and directs said attorneys and agents to vote or act as indicated on the reverse side hereof. If no instruction is given, this proxy will be voted FOR each of Proposals 1, 2, 4, 5 and 6 and 1 YEAR for Proposal 3.

*(continued on reverse side)*

▲ FOLD AND DETACH HERE ▲



7327 Oak Ridge Highway Suite A  
Knoxville, TN 37931

phone 865/769-4011  
fax 865/769-4013

**April 27, 2017**

Dear Stockholder:

It is a great pleasure to have this opportunity to provide you with our 2016 Annual Report and the Proxy Statement for our 2017 Annual Meeting of Stockholders. The Annual Report discusses our performance in fiscal 2016 as well as our business strategy for the future. The Proxy Statement provides you with information relating to the business to be conducted at our annual meeting on May 30, 2017.

**YOUR VOTE IS IMPORTANT!**

You can vote by completing, signing, dating, and returning your proxy card in the accompanying envelope.

Thank you for your continued interest in, and ownership of, Provectus Biopharmaceuticals, Inc.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim C. Scott". The signature is fluid and cursive, with a distinct "T" at the end.

Timothy C. Scott  
President







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

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**FORM 10-K**

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

For the fiscal year ended December 31, 2016

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

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

Commission file number 001-36457

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**PROVACTUS BIOPHARMACEUTICALS, INC.**

(Exact name of registrant as specified in its charter)

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Delaware  
(State or other jurisdiction of  
incorporation or organization)

90-0031917  
(I.R.S. Employer  
Identification No.)

7327 Oak Ridge Highway, Suite A, Knoxville, Tennessee 37931  
(Address of principal executive offices) (Zip Code)

866-594-5999  
(Registrant's telephone number, including area code)

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

Common Stock, par value \$.001 per share

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

Common Stock, par value \$.001 per share  
(Title of class)

---

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

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

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

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

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

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

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company)

Smaller reporting company

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

The aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold as of June 30, 2016 was \$75,807,312 (computed on the basis of \$0.38 per share).

The number of shares outstanding of the registrant's common stock, par value \$.001 per share, as of March 10, 2017 was 364,773,297.

#### **DOCUMENTS INCORPORATED BY REFERENCE**

The information required by Part III is incorporated by reference to portions of the definitive proxy statement to be filed within 120 days after December 31, 2016, pursuant to Regulation 14A under the Securities Exchange Act of 1934 in connection with the 2017 annual meeting of stockholders.

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## TABLE OF CONTENTS

PART I		2
ITEM 1.	BUSINESS	2
ITEM 1A.	RISK FACTORS	18
ITEM 1B.	UNRESOLVED STAFF COMMENTS	29
ITEM 2.	PROPERTIES	29
ITEM 3.	LEGAL PROCEEDINGS	30
ITEM 4.	MINE SAFETY DISCLOSURES	32
PART II		32
ITEM 5.	MARKET FOR REGISTRANT’S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES	32
ITEM 6.	SELECTED FINANCIAL DATA	34
ITEM 7.	MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS	35
ITEM 7A.	QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK	47
ITEM 8.	FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA	47
ITEM 9.	CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE	81
ITEM 9A.	CONTROLS AND PROCEDURES	81
ITEM 9B.	OTHER INFORMATION	85
PART III		83
ITEM 10.	DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE	85
ITEM 11.	EXECUTIVE COMPENSATION	85
ITEM 12.	SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS.	85
ITEM 13.	CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE	85
ITEM 14.	PRINCIPAL ACCOUNTING FEES AND SERVICES	85
PART IV		85
ITEM 15.	EXHIBITS, FINANCIAL STATEMENT SCHEDULES	85
ITEM 16.	FORM 10-K SUMMARY	85

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## CAUTIONARY NOTE REGARDING FORWARD LOOKING STATEMENTS

This Annual Report on Form 10-K contains forward-looking statements regarding, among other things, our anticipated financial and operating results. Forward-looking statements reflect our management's current assumptions, beliefs, and expectations. Words such as "anticipate," "believe," "estimate," "seek," "expect," "intend," "plan," and similar expressions are intended to identify forward-looking statements. While we believe that the expectations reflected in our forward-looking statements are reasonable, we can give no assurance that such expectations will prove correct. Forward-looking statements are subject to risks and uncertainties that could cause our actual results to differ materially from the future results, performance, or achievements expressed in or implied by any forward-looking statement we make. Some of the relevant risks and uncertainties that could cause our actual performance to differ materially from the forward-looking statements contained in this report are discussed below under the heading "Risk Factors" and elsewhere in this Annual Report on Form 10-K. We caution investors that these discussions of important risks and uncertainties are not exclusive, and our business may be subject to other risks and uncertainties which are not detailed there. Investors are cautioned not to place undue reliance on our forward-looking statements. We make forward-looking statements as of the date on which this Annual Report on Form 10-K is filed with the Securities and Exchange Commission ("SEC"), and we assume no obligation to update the forward-looking statements after the date hereof whether as a result of new information or events, changed circumstances, or otherwise, except as required by law.

## PART I

### ITEM 1. BUSINESS.

#### General

Provectus Biopharmaceuticals, Inc., a Delaware corporation formed in 2002, together with its six wholly owned subsidiaries and one majority owned subsidiary managed on a consolidated basis, is a development stage biopharmaceutical company that is primarily engaged in developing ethical pharmaceuticals for oncology and dermatology indications. Our goal is to develop alternative treatments that are safer, more effective, less invasive and more economical than conventional therapies. We develop and intend to license or market and sell our two prescription drug candidates, PV-10 and PH-10. We also hold patents and other intellectual property which we believe may be used in over-the-counter products, which we refer to as OTC products, and various other non-core technologies. We have transferred all our intellectual property related to OTC products and non-core technologies to our subsidiaries and have designated such subsidiaries as non-core to our primary business of developing our oncology and dermatology prescription drug candidates.

#### Prescription Drugs

We focus on developing our prescription drug candidates PV-10 and PH-10. We are developing PV-10 for treatment of several life threatening cancers including metastatic melanoma, liver cancer, and breast cancer. We are developing PH-10 to provide minimally invasive treatment of chronic severe skin afflictions such as psoriasis and atopic dermatitis, a type of eczema. We believe that our prescription drug candidates will be safer and more specific than currently existing products. All of our prescription drug candidates are in either the pre-clinical or clinical trial stage.

The table below sets forth our two prescription drug candidates and our progress in developing those candidates for the indications shown:

#### Product Pipeline

##### Melanoma\*

##### PV-10

- Phase 3 study in progress: Opened recruitment in U.S. in April 2015; expansion from limited sites in U.S. to sites in Europe, Latin America and Asia in 2017 in order to increase enrollment
- Phase 1 and 2 studies completed, full study reports submitted
- Orphan drug status obtained in January 2007

##### Melanoma PV-10 + Pembrolizumab

- Phase 1b/2 study initiated September 2015

##### Melanoma (Method of Action)

##### PV-10

- Phase 1 study to detect immune cell infiltration into melanomas treated with PV-10 completed, study report in preparation
- Data published in peer-reviewed journal May 2016

## **Cancers of the Liver**

### **PV-10**

- Orphan drug status obtained in April 2011
- Phase 1 initial patient accrual and treatment completed
- Phase 1 protocol expansion (September 2012 into 2017)
- Data communicated in 2015
- Phase 1b/2 commencement expected in early 2017

## **Breast Cancer**

### **PV-10**

- Phase 1 study completed
- Further clinical development is being planned for 2018

## **Psoriasis**

### **PH-10**

- Phase 2c randomized study completed and full report submitted to FDA
- Toxicity study R&D for advanced studies 2012 to 2016

## **Psoriasis (Mechanism of Action)**

### **PH-10**

- Phase 2 mechanism of action study initiated in January 2015 by leading research facility
- Phase 2 study recruitment began in Q1 2015
- Phase 2 study recruitment completed in Q3 2015, advanced immunologic profiling of clinical samples ongoing
- Phase 2 study data being compiled for FDA end of Phase 2 meeting

## **Atopic Dermatitis**

### **PH-10**

- Phase 2 study completed and full report submitted to FDA
- Toxicity study R&D for advanced studies 2012 to 2016

\* In addition to clinical trials, 187 patients enrolled in the Compassionate Use Program for PV-10 received PV-10 between June 2009 and June 2016.

### *Oncology (PV-10)*

Reported by Global Cancer Facts & Figures, 3rd Edition, according to estimates from the International Agency for Research on Cancer (IARC), there were 14.1 million new cancer cases in 2012 worldwide, of which 8 million occurred in economically developing

countries, which contain about 82% of the world's population. These estimates do not include non-melanoma skin cancers, which are not tracked in cancer registries. The corresponding estimates for total cancer deaths in 2012 were 8.2 million (about 22,000 cancer deaths a day) – 2.9 million in economically developed countries, and 5.3 million in economically developing countries. By 2030, the global burden is expected to grow to 21.7 million new cancer cases and 13 million cancer deaths simply due to the growth and aging of the population. However, the estimated future cancer burden will probably be considerably larger due to the adoption of lifestyles that are known to increase cancer risk, such as smoking, poor diet, physical inactivity, and fewer pregnancies, in economically developing countries. Cancers related to these factors, such as lung, breast, and colorectal cancers, are already on the rise in economically transitioning countries. In economically developed countries, the three most commonly diagnosed cancers were prostate, lung, and colorectal among males, and breast, colorectal, and lung among females. In economically developing countries, the three most commonly diagnosed cancers were lung, liver, and stomach in males, and breast, cervix uteri, and lung in females. In both economically developed and developing countries, the three most common cancer sites were also the three leading causes of cancer death. Rates of cancers common in Western countries will continue to rise in developing countries if preventive measures are not widely applied. The most common types of cancer also vary by geographic area. For example, among women breast cancer was the most common cancer in 19 out of the 21 world areas, while cervical cancer was the most common in the remaining two areas. Further variations are observed by examining individual countries. In 2012, the most common cancer site among males in most economically developed countries was prostate, with the exception of certain countries of Southern and Eastern Europe (lung cancer), Slovakia (colorectal cancer), and Japan (stomach cancer). Lung and stomach cancer were the top cancer sites in Asia. The greatest variation among males was in Africa, where the most common cancer was prostate, liver, Kaposi sarcoma, lung, non-Hodgkin lymphoma, colorectal, leukemia, esophagus, or stomach. Among females, the most common cancer sites were either breast or cervical cancer, with the exceptions of China and North Korea (lung), South Korea (thyroid), and Mongolia and Laos (liver).

We believe our prescription drug candidate PV-10, a novel investigational drug, may afford competitive advantage compared to currently available options for the treatment of certain types of cancer; particularly solid tumors. Additional geographic variations exist as well. In short, we believe PV-10 is appropriate to treat any solid tumor anywhere. We are developing PV-10, a sterile injectable form of rose bengal disodium (Rose Bengal), for direct injection into tumors. It is an oncolytic immunotherapy agent that when injected intralesionally is tantamount to an “in situ” vaccination following acute and durable necrosis of diseased tissue. Because PV-10 is retained in diseased or damaged tissue but quickly dissipates from healthy tissue, we believe we can develop therapies that confine treatment to cancerous tissue and reduce collateral impact on healthy tissue. We have conducted phase 1 and phase 2 studies of PV-10 for the treatment of recurrent and metastatic melanoma, and phase 1 studies of PV-10 for the treatment of liver and breast cancers, each of which are described in more detail below. Furthermore, in 2015, we commenced a phase 3 study of PV-10 to treat locally advanced cutaneous melanoma as well as a phase 1b/2 study that combines PV-10 and pembrolizumab, both of which are described in more detail below.

#### Recurrent or Locally Advanced Cutaneous Melanoma and Widely Metastatic [Melanoma] Disease

According to Global Cancer Facts & Figures, 3rd Edition, estimated new cases for men in developed countries totaled 99,400 in 2012, and 91,700 for women. Estimated deaths continue to increase as well. PV-10 is potentially applicable for treating all stage III and IV patients, either as a neoadjuvant therapy, monotherapy, or in combination with a systemic agent for late stage patients in particular.

Our Phase 3 clinical trial of intralesional PV-10 as a melanoma treatment opened to enrollment in the first half of 2015, and we are actively recruiting and treating patients in centers in the U.S. and Australia. We are seeking 225 patients for this study, and although initial enrollment has been unacceptably slow due to evolving care standards and intense competition for patients and investigator resources in our traditional regions of clinical development in the U.S. and Australia, we have initiated steps to expand the study to include a total of 61 centers in the U.S., Australia, Europe, Russia, Latin America and China by the end of 2017; this is a substantial increase from 30 sites in the U.S., Australia and Europe that we projected would be necessary at the start of the study, and reflects the need to compete for patients on a global scale for large, specialized oncology studies. The primary outcome measure is progression-free survival, PFS, to be assessed every 12 weeks up to 18 months. The secondary outcome measures include complete response rate, CRR, and its duration to be set every 12 weeks up to 18 months and overall survival to be assessed every 12 weeks up to 18 months. Unlike our Phase 2 study, which was a single arm study, the Phase 3 study is a randomized trial. And we hope to demonstrate conclusively that PV-10 is both safe and effective and is statistically superior to the control therapy, investigator's choice of systemic chemotherapy or intralesional oncolytic viral therapy.

Our estimated primary completion date is September 2018, and an estimated study completion date of October 2018. This compares to an estimated primary completion date of September 2017, and an estimated study completion date of October 2017, we made at the time of study initiation, and reflects cumulative delays in site startup and patient accrual due to competition for patients and investigator resources and rapidly evolving care standards for melanoma patients in the U.S. and Australia. When 50 percent of the



events required for the primary endpoint have occurred, the Independent Data Monitoring Committee will report an interim assessment of efficacy and safety. So, meaningful clinical data could come well before the primary completion date, as documented on [clinicaltrials.gov](http://clinicaltrials.gov).

This phase 3 randomized controlled trial of PV-10 in patients with unresectable locally advanced cutaneous melanoma will assess response to PV-10 versus that of the investigator's choice of systemic chemotherapy or intralesional oncolytic viral therapy in patients who have disease limited to cutaneous and subcutaneous sites and who are not candidates for systemic immunotherapy. Progression-free survival and complete response rate will be assessed using standard criteria (RECIST 1.1). Overall survival and exploratory assessment of patient reported outcomes related to lesion pain and other melanoma symptoms will also be assessed.

We are not alone in advocating for an intralesional approach in the treatment of cancer. For melanoma patients with recurrent or in-transit disease confined to their skin this approach has been used to treat patients for many years, as evidenced by guidelines published by the National Comprehensive Cancer Network (NCCN Guidelines®) defining the standard of care for cancer treatment in the United States. Intralesional injection with BCG and certain immunomodulatory agents, local ablation, topical therapy for superficial lesions and regional radiotherapy are recommended interventions for these patients, along with systemic therapy and participation in a clinical trial. We believe that, in this context, PV-10 is well positioned to show superiority in phase 3 testing as a single agent.

For those patients who do not have all disease accessible to injection, medical oncologists have stated that using an agent like PV-10 to prime the immune system could be synergistic in combination with a systemic agent. Our patent application on this strategy was published in 2012 and we have been vigorously pursuing this approach. We believe the nonclinical research we first presented at the Society for Immunotherapy of Cancer (SITC) annual meeting that year, together with ongoing translational clinical research on PV-10's mechanism of action we are sponsoring at Moffitt and the University of Illinois at Chicago, and our own phase 2 data, provide a rationale for combination testing of PV-10. This development track, separate from the phase 3 study, using PV-10 in combination with checkpoint inhibitors could present a path forward for patients with significant disease burden not amenable to intralesional injection.

While we believe the rapid oncolytic effect immediately evident in patients treated with PV-10 highlights our path to initial approval, the bystander effect, or secondary immunomodulatory benefit of PV-10 as a result of direct ablation, continues to be of scientific interest and studies to quantify systemic tumor-specific immune response in cancer patients are ongoing. This is why we term the overall function of PV-10 as oncolytic immunotherapy. This emerging understanding of the secondary effect of tumor ablation with PV-10 is an important foundation for future studies to assess the long-term impact of PV-10 on distant metastasis and possible combination strategies for use of PV-10 in the treatment of cancer patients with more advanced disease. PV-10 is therefore becoming known as an oncolytic immunotherapy, and we believe it is therefore a next generation oncolytic immunological treatment.

As mentioned above, we are also engaged in studying the use of PV-10 as part of a combination therapy for melanoma for Stage IV patients. Scientifically, combination therapy in cancer treatment is a rapidly maturing area, where a rational combination of agents is replacing the empirical approaches of the past. In this specific instance, we have used insight into the PV-10 mechanism of action and focused pre-clinical testing to begin Phase 1b/2 clinical testing of PV-10 in combination with Merck's KEYTRUDA in patients with Stage IV melanoma. KEYTRUDA is an immune checkpoint inhibitor approved for treatment of patients with advanced or unresectable melanoma. The PV-10 mechanism of action study's clinical findings showed that the immunologic effect of tumor ablation with PV-10 may be complementary to immune checkpoint inhibition. Companion pre-clinical testing of PV-10 in murine models of melanoma also demonstrated that the respective therapeutic effects of PV-10 and immune checkpoint inhibition are increased when the two are used in combination. Put simply, they may work better together, especially for late stage patients. The current Phase 1b/2 study will help us prepare for potential marketing of PV-10 as part of a combination therapy with KEYTRUDA. When we announced the joint patent co-owned with Pfizer in August 2015, it specifically covered the use of PV-10 to treat melanoma and liver cancers in combination with systemic inhibitors of immune system down regulation, such as anti-CTLA-4, PD-1 and PD-L1 antibodies, along with enhancers of immune system up regulation, such as IL-2 and interferon-gamma. In other words, our work with KEYTRUDA, an anti-PD-1 checkpoint inhibitor, is patent protected.

PV-10 represents both a unique opportunity and an incredible responsibility because it may have the potential to change the way cancer is treated around the world. PV-10 is a small molecule designed to be injected directly into tumors, thereby focusing its effect on disease tissue, while limiting exposure in healthy tissue. We believe that this focused effective tumors has the potential to educate the immune system to find other cancer cells with the same characteristics, thereby potentially having an effect on metastases elsewhere in the body. The work previously reported by our collaborators at Moffitt Cancer Center in Tampa and at the University of Illinois at Chicago clearly indicate that this is taking place in laboratory models of multiple tumor types, including melanoma, breast carcinoma, and colorectal cancer. Additional information on how this can translate to patients was reported by the Moffitt team in November 2015 at the Society of Immunotherapy of Cancer Annual Meeting in Washington; in April 2016 at the American Association for Cancer Research Annual Meeting in New Orleans; and in May 2016 in the cancer journal *Oncotarget*.

We are analyzing data obtained from our Compassionate Use Program for PV-10 for non-visceral cancers, which was closed to new enrollment at the end of June, 2016. One hundred eighty seven patients, enrolled in centers across the U.S. and Australia, received PV-10 on a schedule that was more frequent and extensive, and covering a longer period of time, than was allowed under the protocol used for the phase 2 trials. Safety data obtained from this was very helpful with planning the phase 3 melanoma study as well as treating other types of cutaneous and subcutaneous cancers, and we are gratified we could provide PV-10 for patients that had no other available option.

We are continuing to assess how much additional work we should do by ourselves, and when to partner with a larger company to further co-develop PV-10, as well as potential paths to accelerated and expedited approval in the U.S. and abroad, including in China and India.

We strengthened our position in the Chinese market with our letter of intent with Boehringer Ingelheim (China) Investment Company Limited, signed July 2, 2015. We are benefiting from their 20 plus years of experience in China, and we are building a relationship with them that may help us in commercializing and marketing PV-10 in mainland China, Hong Kong and Taiwan, as we work with the appropriate regulatory bodies. We are committed to being successful in China, in particular, and Asia in general.

Discussions have continued on the basis of a memorandum of understanding signed last year with Sinopharm-China State Institute of Pharmaceutical Industry, CSIPI, the leader among all pharmaceutical research institutes in China and Sinopharm A-Think Pharmaceutical Company Limited, Sinopharm A-Think, the only injectable anti-tumor drug research and development manufacturer and distribution integrated platform within Sinopharm Group. While our working arrangement is more developed with Boehringer, management of Provectus and senior personnel and Sinopharm, CSIPI, and Sinopharm A-Think has held numerous conference calls, have met face-to-face in both China and the U.S., and Chinese scientists on staff at Sinopharm have discussed in person PV-10 and its clinical results with various lead investigators we work with globally. Some more formal relationship with them remains an option for us in China, and will endeavor to include Boehringer as well in any future developments and potential partnerships.

Efforts have been active in Brazil as we work with potential partners there, and Latin America in general, as well as in India, as we continue our focus to enter into geographic license and our collaborations that allow us to generate meaningful clinical data more rapidly than otherwise.

We have signed agreements with two manufacturers to supply us with clinical-quality PV-10, and we now have sufficient quantities of PV-10 available to continue the phase 3 trial and our other PV-10 development activities. To assure smooth execution of the study we have lined up specialty contract research organizations (CROs) and other service providers with expertise in clinical operations and integrated data management. As is standard in our industry, this includes full-service, international CROs who will coordinate the global efforts of this team of specialists.

Our lead CRO is coordinating global safety monitoring (pharmacovigilance) appropriate for our growing global clinical operations, and establishment of an independent Clinical Trial Data Monitoring Committee (DMC) to provide independent oversight of our phase 3 melanoma study. The FDA states “A clinical trial DMC is a group of individuals with pertinent expertise that reviews on a regular basis accumulating data from one or more ongoing clinical trials. The DMC advises the sponsor regarding the continuing safety of trial subjects and those yet to be recruited to the trial, as well as the continuing validity and scientific merit of the trial.” The DMC will ensure that our study provides patients with maximum possible safety while protecting the scientific validity and integrity of the data we gather.

### Liver Cancers

According to Global Cancer Facts & Figures, 3rd Edition, liver cancer is the fifth most common cancer in men and the ninth in women. An estimated 782,500 new liver cancer cases occurred in the world during 2012, with China alone accounting for about 50% of the total. Rates are more than twice as high in men as in women. Liver cancer rates are the highest in Central America, West and Central Africa, and East and Southeast Asia (Figure 9). Most primary liver cancers occurring worldwide are hepatocellular carcinoma (HCC), which likely accounts for 70% to 90% of cases. One type of liver cancer (cholangiocarcinoma) that is rare in most parts of the world has high incidence rates in Thailand and other parts of Asia due to the high prevalence of liver fluke infection. Worldwide, liver cancer is the second leading cause of cancer death in men and the sixth leading cause among women, with about 745,500 deaths in 2012.

Early detection is difficult and as a result, most cases reach an advanced metastatic stage and are unresectable. If the cancer cannot be completely removed, the disease is usually deadly within three to six months. Malignant lesions in the liver arising from HCC or metastases from a wide range of cancers represent an ongoing treatment challenge for oncologists. HCC is one of the most common malignancies worldwide, and its incidence is rapidly increasing in the United States. The liver is a common site of metastases from solid tumors, particularly those arising in the gastrointestinal tract. Other tumors, such as lung and breast cancer and melanoma, also readily spread to the liver.

During 2016, we expanded our exploratory phase 1 study of cancers of the liver to four centers (St. Luke's University Health Network, Bethlehem, Pennsylvania; The Southeastern Center for Digestive Disorders & Pancreatic Cancer, Tampa, Florida; Sharp Memorial Hospital, San Diego, California; and Vanderbilt University Medical Center, Nashville, Tennessee), and we are evaluating the addition of several more centers to further advance this initial effort. We reported results from long-term follow-up of our initial patients in February 2017 at two international oncology conferences, one in the U.S. and the other in China. We are assessing strategies to accelerate advancement to phase 1b/2 testing, either alone or in combination with systemic therapy. Any combination studies in the liver are likely to follow similar development strategies to those outlined above for melanoma and rely on much of the same foundational science.

The current phase 1 study, initially designed solely to establish safety of percutaneous injection of PV-10 into liver tumors (that is, injection through the skin), is providing valuable data crucial for planning such advanced clinical development. This trial is open to patients with hepatocellular carcinoma or other cancers metastatic to the liver who have at least one tumor that has either originated in or spread to the liver and are not candidates for surgery or transplant. All patients enrolled in this open-label study receive the same treatment: an interventional radiologist injects PV-10 percutaneously into a single liver tumor. Patients with multiple injectable tumors may later receive further PV-10 to their other tumors. We have received numerous inquiries about this study from researchers as well as patients and their doctors, and refer these to our investigators through the contact information available on the [clinicaltrials.gov](http://clinicaltrials.gov) website. We plan to commence the phase 1b/2 liver study in early 2017. This study has potential for generating sufficient data to support expedited approval under one or more FDA programs.

In July 2015, data were presented at two conferences that show our progress to date on the treatment of hepatocellular carcinoma and cancers metastatic to the liver. We made a poster presentation at the ESMO 17th World Congress on Gastrointestinal Cancer (ESMO GI) in Barcelona at the beginning of July, and detailed data from our relevant Phase 1 study of PV-10. The main conclusion was that preliminary evidence of efficacy in treatment of cancers of the liver with PV-10 was observed. That same week, Dr. Sanjiv Agarwala presented the data in poster form at the 6th Asia-Pacific Primary Liver Cancer Expert Meeting, APPLE 2015, in Osaka, Japan. Both of these posters can be found on our website. What these data show is that PV-10 affects cancers of the liver in much the same way it does melanoma. More work has to be done, but we believe that these results support advanced clinical development of PV-10 in one or more phase 1b/2 studies referred to above.

In November 2016 at the Society of Immunotherapy of Cancer Annual Meeting in Washington, our collaborators at Moffitt Cancer Center reported preliminary data on combination of intralesional PV-10 with systemic gemcitabine, using murine models of metastatic pancreatic adenocarcinoma. Gemcitabine is a standard chemotherapeutic agent used to treat pancreatic cancer, and the Moffitt team showed that PV-10 ablation of pancreatic cancer tumors led to immunologic activation comparable to that previously reported for melanoma, breast carcinoma and colorectal tumors. Addition of gemcitabine enhanced these effects of PV-10, possibly via suppression of myeloid derived suppressor cells (MDSC), which decrease in response to gemcitabine. Since MDSC have an inhibitory effect on a number of immune effector cells, including CD8+ T cells, dendritic cells and NK T cells, the apparent combination effect could result from reduced immune suppression by gemcitabine coupled with immunologic stimulation by PV-10. According to statistics from the American Cancer Society, over 53,000 new cases of pancreatic cancer are expected in the U.S. in 2016, with 41,780 deaths and a 5-year survival of 8%. What we have learned so far about percutaneous PV-10 injection into liver cancers could have applicability to an exploratory clinical study of this cancer where any progress is likely to be clinically meaningful.

### Breast Cancer

According to Global Cancer Facts & Figures, 3rd Edition, breast cancer is the most frequently diagnosed cancer in women worldwide with nearly 1.7 million new cases diagnosed in 2012, accounting for 25% of all new cancer cases in women. A little more than half (53%) of these cases occurred in economically developing countries, which represents about 82% of the world population. An estimated 521,900 breast cancer deaths occurred in women in 2012. Breast cancer is the leading cause of cancer death among women in developing countries and the second leading cause of cancer death (following lung cancer) among women in developed countries. Asian countries, which represent 59% of the global population, have the largest burden of breast cancer, with 39% of new cases, 44% of deaths, and 37% of the world's five-year survivors. Although Northern America (US and Canada) represents only 5% of the world

population, it accounts for 15% of new cases, 9% of deaths, and 17% of survivors, reflecting the high incidence and survival rates in the region. In contrast, African countries (15% of world population) represent 8% of the total new cases, but 12% of breast cancer deaths because of poor survival due to late stage at diagnosis and limited treatment.

In 2005, we began a phase 1 study of PV-10 to assess the safety and tolerability of injections of PV-10 into recurrent breast carcinoma. We completed the phase 1 study in 2008. The primary outcome measure was systemic and locoregional adverse experience. The secondary outcome measures were (i) histopathologic response of PV-10 injected lesions and (ii) wound healing of PV-10 injected lesions.

The goals of the phase 1 clinical trial were to determine the safety of the treatment and the appropriate dosage. We have also wanted to show that PV-10 has multi-indication potential. We continued to demonstrate this objective in 2011 through 2015, and continued to do so in 2016. We are now in a position for a phase 2 study in recurrent breast carcinoma with our lead oncology drug product candidate PV-10. We are evaluating potential for further development of PV-10 to treat recurrent breast cancer based on the published data provided by Moffitt as well as interest to address this important indication.

### Colon and Rectum Cancer

According to Global Cancer Facts & Figures, 3rd Edition Colon and Rectum, colorectal cancer is the third most common cancer in men and the second in women. Worldwide, an estimated 1.4 million cases of colorectal cancer occurred in 2012. The highest incidence rates were in Northern America, Australia, New Zealand, Europe, and South Korea. Rates were low in Africa and South Central Asia. About 693,900 deaths from colorectal cancer occurred in 2012 worldwide, accounting for 8% of all cancer deaths. The incidence of colorectal cancer is increasing in certain countries where risk was historically low (e.g., Japan).

The greatest increases are in Asia (Japan, Kuwait, and Israel) and Eastern Europe (Czech Republic, Slovakia, and Slovenia). In fact, incidence rates among males in the Czech Republic, Slovakia, and Japan have exceeded the peak rates observed in longstanding developed countries, such as the United States, Canada, and Australia, and continue to increase. In high-risk/high-income countries, trends over the past 20 years have either gradually increased (Finland and Norway), stabilized (France and Australia), or declined (United States) with time. The decrease in colorectal cancer incidence in the United States among those 50 years of age and older partially reflects the increase in detection and removal of precancerous lesions through screening. In contrast to the stabilizing rates observed in most Western and Northern European countries, relatively large increases have been observed in Spain, which may be related to the increasing prevalence of obesity in recent years in that country. The increase in several Asian and Eastern European countries may also reflect increased prevalence of risk factors for colorectal cancer associated with westernization such as unhealthy diet, obesity, and smoking. In contrast to incidence trends, decreasing colorectal cancer mortality rates have been observed in a large number of countries worldwide and are most likely due to colorectal cancer screening and/or improved treatments. However, increases in mortality rates are still occurring in countries that have more limited resources, including Brazil and Chile in South America and Romania and Russia in Eastern Europe.

On February 2, 2015, data discussing the immunologic effects of PV-10 on colon cancer cells were presented at the 11th Annual Academic Surgical Congress in Jacksonville, Florida. The abstract, titled "PV-10 Induces Potent Immunogenic Apoptosis in Colon Cancer Cells," was presented by N. M. Kunda of the University of Illinois at Chicago, Division of Surgical Oncology, Department of Surgery, College of Medicine, Chicago, IL, USA. The research team is led by Dr. A.V. Maker, and co-authors in addition to Drs. Kunda and Maker are: J. Qin, G. Qiao also of UIC, Division of Surgical Oncology, Department of Surgery. The team of authors also includes B. Prabhakar of the University of Illinois at Chicago, Department of Microbiology & Immunology, College of Medicine, Chicago, IL, USA. Dr. Maker belongs to both Departments.

In the presentation, Dr. Kunda noted that in vitro testing of PV-10 on colon cancer (murine CT-26 cells) showed cytotoxicity consistent with immunogenic apoptosis. Further, he stated that the researchers observed cell arrest, apoptosis, autophagy and endoplasmic reticulum (ER) stress. He concluded that these results are consistent with immunologic cell death caused by PV-10.

The work reported in Dr. Kunda's presentation further expands our understanding of the mechanism of action of PV-10 as an oncolytic immunotherapy for solid tumors, and parallels immunologic signaling noted upon ablation of melanoma with PV-10.

### Other Indications

The compassionate use program for PV-10, which was closed to new patient enrollment at the end of June, 2016, was available for cancer indications that do not involve treatment of visceral organs and were not subject to enrollment in ongoing clinical trials. These indications include certain breast cancers, basal cell carcinoma, squamous cell carcinoma, certain head and neck cancers and melanoma. Compassionate use programs provide patients with access to experimental therapeutics prior to FDA approval.

The protocol for the compassionate use program allowed patients to receive PV-10 on a schedule that was more frequent and extensive, and covering a longer period of time, than was allowed under the protocol used for the phase 2 trial of PV-10. Safety data obtained helped define the dose regimen for the phase 3 study for melanoma. The majority of patients enrolled in the program were treated for melanoma (177), with ten other patients treated for other indications such as recurrent squamous cell carcinoma and refractory scalp sarcoma.

In December 2016 we signed a Master Research Agreement with the Pediatric Oncology Experiment Therapeutics Investigators' Consortium (POETIC), a group of 10 top-tier academic medical centers developing new pediatric center therapies, focused on assessment of PV-10 as a potential treatment for childhood cancers. The agreement establishes a framework for collaborative pre-clinical research projects the Company may conduct with members of POETIC within the field of pediatric oncology. To date no data have been reported from this work.

Additionally, we are considering a clinical study of PV-10 for each of multiple other solid tumor indications.

### *Dermatology (PH-10)*

Our prescription drug candidate PH-10 is an aqueous hydrogel formulation of Rose Bengal for topical administration to the skin. It is a novel nonsteroidal anti-inflammatory agent that interacts with ambient and other light sources. We believe PH-10 is appropriate to treat all indications that are described as inflammatory dermatoses. We are developing PH-10 for the treatment of cutaneous skin disorders, specifically psoriasis and atopic dermatitis, and we believe that PH-10 may be successful in treating other skin diseases. We believe that PH-10 may offer a superior treatment for psoriasis and atopic dermatitis because it selectively treats diseased tissue with negligible potential for side effects in healthy tissue.

We have been actively discussing licensing transactions with a number of potential out licensing partners for PH-10. We believe that our phase 2c trial of PH-10 for psoriasis will further solidify the commercial viability of PH-10 in these discussions. In August 2011, we completed follow-up of all phase 2c patients and communicated data of the study to both prospective partners as well as the public market in early 2012. In January 2015, we commenced a mechanism of action study of PH-10 to better characterize the unique immunologic signaling aspects along with PH-10 safety and efficacy. This study was completed in January 2016 and advanced immunologic profiling of clinical samples obtained is ongoing.

### Psoriasis

Psoriasis is a common chronic disorder of the skin characterized by dry scaling patches, called "plaques," for which current treatments are few and those that are available have potentially serious side effects. There is no known cure for the disease at this time. According to the National Institutes of Health, as many as 7.5 million Americans, or approximately 2.2 percent of the U.S. population, have psoriasis. The National Psoriasis Foundation reports that approximately 125 million people worldwide, 2 to 3 percent of the total population, have psoriasis. It also reports that total direct and indirect health care costs of psoriasis for patients exceed \$11 billion annually.

According to the National Psoriasis Foundation, the majority of psoriasis sufferers, those with mild to moderate cases, are treated with topical steroids that can have unpleasant side effects. None of the other treatments for moderate cases of psoriasis have proven completely effective. The 25-30% of psoriasis patients who suffer from more severe cases generally are treated with more intensive drug therapies or PUVA, a light-based therapy that combines the drug Psoralen with exposure to ultraviolet A light. While PUVA is one of the more effective treatments, it increases a patient's risk of skin cancer.

Our phase 1 study for PH-10 was initiated in April 2001 to evaluate the safety of three different doses of PH-10 in separate patient segment groups. Subjects in the study each received a single dose of PH-10 followed by administration of green light on psoriatic plaques. Subjects were examined post-treatment, with a final follow-up examination at 90 days.

Detailed phase 2 study of PH-10 for treatment of psoriasis was initiated in 2009 and completed in April 2010. There were 30 subjects treated in the completed phase 2 study, and an additional six subjects were treated in an earlier study that was terminated in favor of an increased dosing frequency. Consistent with the preliminary data that we announced in December 2009, 70% of the 30 subjects enrolled in the phase 2 clinical trial of PH-10 for psoriasis demonstrated improvement in their Psoriasis Severity Index (PSI) scores at the end of four weeks of daily treatment with PH-10. In addition, 86% of subjects reported no or only mild pruritus (itching) by week four of the trial, and no significant safety issues were noted. At the four-week interval substantial improvement was observed across all standard disease assessment scores.

During 2010, we initiated a phase 2c clinical trial of PH-10 for psoriasis. This multicenter, randomized controlled phase 2c study enrolled 99 subjects at four different sites, which began in December 2010. The subjects were randomized sequentially by center to

one of four treatment cohorts, and assessed efficacy and safety of topical PH-10 applied once daily to areas of mild to moderate plaque psoriasis. The primary efficacy endpoint was “treatment success,” a static endpoint assessed at day 29 after initial PH-10 treatment and defined as 0 or 1 on all Psoriasis Severity Index (PSI) components and 0 or 1 on the Plaque Response scale. The primary safety endpoint was incidence of adverse experiences, including pain and dermatologic/skin toxicity (incidence, severity, frequency, duration and causality). The secondary outcome measures were (i) Psoriasis Severity Index (PSI) score changes at each visit from day 1 pre-treatment, (ii) Plaque Response score changes at each visit from day 1 pre-treatment, and (iii) Pruritus Self-Assessment score changes at each visit from day 1 pre-treatment.

The phase 2c trial was conducted at four sites in the U.S. including the Mount Sinai School of Medicine in New York City, Wake Research Associates in Raleigh, North Carolina, Dermatology Specialists in Oceanside, California, and International Dermatology Research in Miami, Florida. With over 90 subjects, this trial is the largest dermatological trial that we have conducted to date.

The results of this study helped define the parameters necessary for the design of a pivotal phase 3 trial, and it was an important milestone on the regulatory pathway leading towards commercialization. In addition, we have held discussions with a number of potential out licensing partners, and we believe this phase 2c trial has further solidified the commercial viability of PH-10 in these discussions. We have also continued important toxicology research and development from 2012 into 2016 to prepare for a phase 3 study and to support possible filing of a New Drug Application filing.

In December 2014, we announced commencement of a phase 2 study of the mechanism of action of PH-10 in psoriasis. The purpose of the trial was to study the safety and efficacy of PH-10, a 0.005% preparation of Rose Bengal, in the treatment of psoriasis. Officially titled, “A Phase 2 Study of Cellular and Immunologic Changes in the Skin of Subjects Receiving PH-10 Aqueous Hydrogel to Plaque Psoriasis,” total enrollment was up to 30 patients. Subjects applied PH-10 vehicle daily for 28 consecutive days followed by active PH-10 daily for 28 consecutive days to their plaque psoriasis areas on the trunk or extremities (excluding palms, soles, scalp, facial and intertriginous sites). Biopsies of one target plaque were collected at baseline (at least 7 days prior to first study treatment on Day 1) and at Days 29 and 64, with a 7-day interval between biopsy at Day 29 at the end of vehicle application and commencement of application of active PH-10 on Day 36. Study data from each subject serves as an internal control (i.e., with assessment at baseline and at the end of application of PH-10 vehicle) for evaluation of clinical and cellular response to active investigational agent.

The multicenter study was designed to assess treated psoriatic plaque for “changes in immunologic, structural and hyperproliferative state and for any evidence of cellular atypia” when treated with PH-10 and to “correlate observed changes in the skin with clinical response to treatment.” These assessments may advance the understanding of the mechanism of action of PH-10 in psoriasis and other inflammatory dermatoses, such as atopic dermatitis, and further substantiate the safety profile of the agent. Biopsy specimens will be assessed for changes in epidermal hyperplasia (i.e., disordered condition of the skin creating thickening and scaling); infiltration with immune cells; and molecular markers of inflammation. Correlation of clinical response to these cellular and molecular changes will be performed at the plaque level using Psoriasis Severity Index (PSI) assessment data. Safety will be assessed by monitoring the frequency, duration, severity and attribution of clinical adverse events; evaluating changes in laboratory values and vital signs; and by correlation of clinical adverse events with observed histopathologic and immunohistopathologic changes in the skin.

By capturing data at the clinical and cellular level, we expect this study to allow us to establish how PH-10 affects psoriatic plaque and other similar inflammatory diseases of the skin, and to relate the safety profile from earlier studies to such effects. We believe that understanding these effects with this level of detail will allow us to properly position PH-10 within the competitive landscape and should provide crucial safety data to support extended dosing. We expect this effort to provide a comparable level of understanding of the effects of PH-10 in diseased skin to the keen insight we have gained through our clinical and nonclinical mechanism studies of PV-10, our novel investigational cancer drug, in melanoma and other cancers. Because there are no good model systems for psoriasis, we believe this study affords a critical opportunity to link the clinical effects we have observed to changes in well-established immunologic drivers of the disease. The clinical portion of the study was performed at three centers in the United States. The first patient entered the study in January 2015, and the last patient completed clinical activities in December 2015. Preliminary analysis of biopsy specimens was completed in April 2016, and advanced immunologic profiling of clinical samples obtained is ongoing. This work is expected to be completed in early 2017. We will use data from this study to guide further development of PH-10 with our objective to co-develop or license PH-10 with dermatological partner as we continue to prepare to advance PH-10 for approval as topical anti-inflammatory non-steroidal agent for treating psoriasis and other inflammatory dermatoses.

### Atopic Dermatitis

Atopic Dermatitis, the most severe and common type of eczema, is a long-term skin disease that causes dry and itchy skin, rashes on the face, inside the elbows, behind the knees, and on the hands and feet. Scratching of the afflicted skin can cause redness, swelling,

cracking, weeping clear fluid, crusting, thick skin, and scaling. According to the National Eczema Association, physicians estimate that 65% of eczema patients are diagnosed in the first year of life and 90% of patients experience it before age five. Often the symptoms fade during childhood, though most will have atopic dermatitis for life. The National Eczema Association estimates that atopic dermatitis affects over 30 million Americans.

In 2008, we initiated a phase 2 study of PH-10 for the treatment of atopic dermatitis. This phase 2 study assessed whether topical PH-10 applied once daily to mild, moderate or severe atopic dermatitis may ameliorate inflammation of the skin when activated by ambient light. The subjects applied PH-10 daily for 28 days to skin areas affected by atopic dermatitis. The subjects were assessed weekly during the treatment period and for four weeks following the treatment period. The primary outcome measures were (i) treatment success, defined as a score of 0 to 1 at day 28, the end of the study treatment period, by the Investigator's Global Assessment (IGA) scoring system for atopic dermatitis status, and (ii) adverse experience, including pain and dermatologic/skin toxicity (incidence, severity, frequency, duration and causality) during the eight weeks following treatment.

Data from the subjects indicated that a substantial majority of subjects had improvement in the Eczema Area Severity Index (EASI) during four weeks of treatment. The treatments were generally well tolerated with no significant safety issues identified. At the four-week interval substantial improvement was observed across all standard disease assessment scores. We have also continued important toxicity study research and development in 2012 through 2015 and thus far in 2016 to prepare for continued development in this indication and to support a New Drug Application filing.

### Other Indications

We have investigated the use of PH-10 for treatment of actinic keratosis (also called solar keratosis or senile keratosis), which is the most common pre-cancerous skin lesion among fair-skinned people and is estimated to occur in over 50% of elderly fair-skinned persons living in sunny climates. We have previously conducted a phase 1 clinical trial of PH-10 for actinic keratosis to examine the safety profile of a single treatment using topical PH-10 with green light photoactivation. No significant safety concerns were identified in the study. We have decided to prioritize further clinical development of PH-10 for treatment of psoriasis and atopic dermatitis rather than actinic keratosis at this time since the market is much larger for psoriasis and atopic dermatitis.

We have also conducted pre-clinical studies of PH-10 for use in treating severe acne vulgaris. Moderate to severe forms of the disease have proven responsive to several photodynamic regimens, and we anticipate that PH-10 can be used as an advanced treatment for this disease. Our pre-clinical studies show that the active ingredient in PH-10 readily kills bacteria associated with acne. This finding, coupled with our clinical experience in psoriasis, atopic dermatitis, and actinic keratosis, suggests that therapy with PH-10 should exhibit no significant side effects and could afford improved performance relative to other therapeutic alternatives. If correct, this would be a major advance over currently available products for severe acne.

The active ingredient in PH-10 is photoactive in that it reacts to light of certain wavelengths thereby potentially increasing its therapeutic effects. We believe that photodynamic treatment regimens can deliver a higher therapeutic effect at lower dosages of active ingredient, thus minimizing potential side effects including damage to nearby healthy tissues. PH-10 is especially responsive to green light, which is strongly absorbed by the skin and thus only penetrates the body to a depth of about three to five millimeters. For this reason, in the past we have investigated PH-10 combined with green-light activation, for topical use in surface applications where serious damage could result if medicinal effects were to occur in deeper tissues.

### **Over-the-Counter Pharmaceuticals**

We have designated our subsidiary that holds our OTC products, GloveAid and Pure-ific, Pure-Stick, Pure N Clear as non-core. The potential further development and licensure of our OTC products would likely be facilitated by selling a majority stake of the underlying assets of the non-core subsidiary holding the OTC products. This transaction would likely be accomplished through a non-core spin-out process, which would enable the non-core subsidiary to become a separate publicly held company. The new public entity could then raise funds without diluting the ownership of the then current stockholders of the Company, although there can be no assurance that this process will occur.

#### *GloveAid*

Personnel in many occupations and industries now use disposable gloves daily in the performance of their jobs, including airport security personnel, food handling and preparation personnel, health care workers such as hospital and blood bank personnel, laboratory researchers, police, fire and emergency response personnel, postal and package delivery handlers and sorters, and sanitation workers.

Accompanying the increased use of disposable gloves is a mounting incidence of chronic skin irritation. To address this market, we have developed GloveAid, a hand cream with both antiperspirant and antibacterial properties, to increase the comfort of users' hands during and after the wearing of disposable gloves. During 2003, we ran a pilot scale run at the manufacturer of GloveAid.

### *Pure-ific*

Our Pure-ific line of products includes two quick-drying sprays, Pure-ific and Pure-ific Kids, that immediately kill up to 99.9% of germs on skin and prevent regrowth for six hours. We have determined the effectiveness of Pure-ific based on our internal testing and testing performed by Paratus Laboratories H.B., an independent research lab. Pure-ific products help prevent the spread of germs and thus complement our other OTC products designed to treat irritated skin or skin conditions such as acne, eczema, dandruff and fungal infections. Our Pure-ific sprays have been designed with convenience in mind and are targeted towards mothers, travelers, and anyone concerned about the spread of sickness-causing germs. During 2003 and 2004, we identified and engaged sales and brokerage forces for Pure-ific. We emphasized getting sales in independent pharmacies and mass (chain stores) markets. The supply chain for Pure-ific was established with the ability to support large-scale sales and a starting inventory was manufactured and stored in a contract warehouse/fulfillment center. In addition, a website for Pure-ific was developed with the ability for supporting online sales of the antibacterial hand spray. During 2005 and 2006, most of our sales were generated from customers accessing our website for Pure-ific and making purchases online. We discontinued our proof-of-concept program in November 2006 and have, therefore, ceased selling our OTC products. We now intend to license the Pure-ific product, a strategy we have been discussing with interested groups. Additionally, we also intend to sell a majority stake in the underlying assets via a non-core spin-out transaction.

### *Acne*

Our acne products Pure-Stick and Pure N Clear work by decreasing the production of fats, oils and sweat that create an environment conducive to unchecked growth of bacteria. Secondly, the products also act to reduce the number of bacteria already present. Pure-Stick and Pure N Clear represent new formulations of proven, safe ingredients that achieve both steps required to successfully treat acne. Since Pure-Stick and Pure N Clear are applied topically to affected areas there are no safety concerns with healthy skin. The unique combinations have allowed the Company to secure patent protection for these products.

## **Medical Devices**

We have non-core medical device technologies that we believe may address two major markets:

- cosmetic treatments, such as reduction of wrinkles and elimination of spider veins and other cosmetic blemishes; and
- therapeutic uses, including photoactivation of PH-10, other prescription drugs and non-surgical destruction of certain skin cancers.

We expect to further develop our non-core medical devices through partnerships with, or selling our assets to, third-party device manufacturers or, if appropriate opportunities arise, through acquisition of one or more device manufacturers. Additionally, we also intend to sell a majority stake in the underlying assets via a non-core spin-out transaction.

### Laser-Based Treatment of Melanoma

We have conducted extensive research on ocular melanoma at the Massachusetts Eye and Ear Infirmary (a teaching affiliate of Harvard Medical School) using a new laser treatment that may offer significant advantage over current treatment options. A single quick non-invasive treatment of ocular melanoma tumors in a rabbit model resulted in elimination of over 90% of tumors, and may afford significant advantage over invasive alternatives, such as surgical excision, enucleation, or radiotherapy implantation. Ocular melanoma is rare, with approximately 2,000 new cases annually in the U.S., but based on these results, we believe that a device for laser treatment of melanomas of the eye is nearly ready for human studies. We anticipate partnering with, or selling our assets to, a medical device manufacturer to bring it to market in reliance on a 510(k) notification. For more information about the 510(k) notification process, see "Federal Regulation of Therapeutic Products" below.



## Research and Development

We continue to actively develop projects that are product-directed and are attempting to conserve available capital and achieve full capitalization of our company through equity and convertible debt offerings, generation of product revenues, and other means. All ongoing research and development activities are directed toward maximizing shareholder value and advancing our corporate objectives in conjunction with our OTC product licensure, our current product development and maintaining our intellectual property portfolio.

Research and development costs totaling \$8,543,074 for 2016 included payroll of \$589,790, consulting and contract labor of \$6,355,102, lab supplies and pharmaceutical preparations of \$70,465, legal of \$330,684, insurance of \$243,569, rent and utilities of \$96,794, and depreciation and amortization expense of \$684,234. Research and development costs totaling \$11,379,689 for 2015 included payroll of \$2,292,710, consulting and contract labor of \$6,652,406, lab supplies and pharmaceutical preparations of \$1,115,140, legal of \$358,582, insurance of \$189,358, rent and utilities of \$87,208, and depreciation and amortization expense of \$684,285. Research and development costs totaling \$5,809,047 for 2014 included payroll of \$1,395,321, consulting and contract labor of \$2,355,780, lab supplies and pharmaceutical preparations of \$790,653, legal of \$384,061, insurance of \$115,957, rent and utilities of \$87,623, and depreciation and amortization expense of \$679,652.

## Production

We have determined that the most efficient use of our capital in further developing our OTC products is to license the products. We have been discussing this strategy with interested groups. Additionally, we also intend to sell a majority stake in the underlying assets via a non-core spin-out transaction.

## Sales

We have not had any significant sales of any of our OTC products, though we commenced limited sales of Pure-ific, our antibacterial hand spray in 2004 through 2006, in a proof-of-concept program. We discontinued our proof-of-concept program in 2006 and have, therefore, ceased selling our OTC products. We will continue to seek additional markets for our products through existing distributorships that market and distribute medical products, ethical pharmaceuticals, and OTC products for the professional and consumer marketplaces through licensure, partnership and asset sale arrangements, and through potential merger and acquisition candidates.

In addition to developing products ourselves, we are negotiating actively with a number of potential licensees for several of our intellectual properties, including patents and related technologies. To date, we have not yet entered into any licensing agreements; however, we anticipate consummating one or more such licenses in the future.

## Intellectual Property

### *Patents*

We hold a number of U.S. patents covering the technologies we have developed and are continuing to develop for the production of prescription drugs, non-core technologies and OTC pharmaceuticals. All patents material to an understanding of the Company are included and a cross reference to a discussion that explains the patent technologies and products is identified for each patent in the following table:

<u>U.S. Patent No.</u>	<u>Title and Cross Reference</u>	<u>Issue Date</u>	<u>Expiration Date</u>
6,331,286	Methods for high energy phototherapeutics; see discussion under Oncology in Description of Business	December 18, 2001	February 27, 2019
6,451,597	Method for enhanced protein stabilization and for production of cell lines useful production of such stabilized proteins; see discussion under Material Transfer Agreement in Description of Intellectual Property	September 17, 2002	April 6, 2020

<u>U.S. Patent No.</u>	<u>Title and Cross Reference</u>	<u>Issue Date</u>	<u>Expiration Date</u>
6,468,777	Method for enhanced protein stabilization and for production of cell lines useful production of such stabilized proteins; see discussion under Material Transfer Agreement in Description of Intellectual Property	October 22, 2002	April 6, 2020
6,493,570	Method for improved imaging and photodynamic therapy; see discussion under Oncology in Description of Business	December 10, 2002	November 2, 2018
6,495,360	Method for enhanced protein stabilization for production of cell lines useful production of such stabilized proteins; see discussion under Material Transfer Agreement in Description of Intellectual Property	December 17, 2002	April 6, 2020
6,541,223	Method for enhanced protein stabilization and for production of cell lines useful production of such stabilized proteins; see discussion under Material Transfer Agreement in Description of Intellectual Property	April 1, 2003	April 6, 2020
6,986,740	Ultrasound contrast using halogenated xanthenes; see discussion under Oncology in Description of Business	January 17, 2006	August 3, 2019
6,991,776	Intracorporeal medicaments for high energy phototherapeutic treatment of disease; see discussion under Oncology in Description of Business	January 31, 2006	February 24, 2019
7,201,914	Combination antiperspirant and antimicrobial compositions; see discussion under Over-the-Counter Pharmaceuticals in Description of Business	April 10, 2007	May 15, 2024
7,338,652	Diagnostic Agents for Positron Emission Imaging; see discussion under Oncology in Description of Business	March 4, 2008	November 2, 2018
7,402,299	Intracorporeal photodynamic medicaments for photodynamic treatment containing a halogenated xanthene or derivative; see discussion under Dermatology in Description of Business	July 22, 2008	September 1, 2017
8,470,296	Improved intracorporeal medicaments for high energy photodynamic treatment of disease; see discussion under Dermatology in Description of Business	June 25, 2013	July 28, 2022
8,530,675	Process for the synthesis of rose bengal and related xanthenes; see discussion under Oncology in Description of Business	September 10, 2013	April 21, 2031
8,974,363	Topical medicaments for disease; see discussion under Dermatology in Description of Business	March 10, 2015	December 2, 2019
9,107,887	Combination therapy for cancer; see discussion under Oncology in Description of Business	August 15, 2015	March 9, 2032
9,273,022	Process for the synthesis of rose bengal and related xanthenes; see discussion under Oncology in Description of Business	March 1, 2016	September 17, 2030
9,422,260	Process for the synthesis of rose bengal and related xanthenes; see discussion under Oncology in Description of Business	August 23, 2016	September 26, 2030

We continue to pursue patent applications on numerous other developments we believe to be patentable. We consider our issued patents, our pending and patent applications, and any patentable inventions which we may develop to be extremely valuable assets of our business.

### *Material Transfer Agreement*

We have entered into a “Material Transfer Agreement” dated as of July 31, 2003 with Schering-Plough Animal Health Corporation, which we refer to as “SPAHA”, the animal-health subsidiary of Schering-Plough Corporation, a major international pharmaceutical company which is still in effect. Under the Material Transfer Agreement, we will provide SPAHA with access to some of our patented technologies to permit SPAHA to evaluate those technologies for use in animal-health applications. If SPAHA determines that it can commercialize our technologies, then the Material Transfer Agreement obligates us and SPAHA to enter into a license agreement providing for us to license those technologies to SPAHA in exchange for progress payments upon the achievement of goals.

The Material Transfer Agreement covers four U.S. patents that cover biological material manufacturing technologies (i.e., biotech related). The Material Transfer Agreement continues indefinitely, unless SPAHA terminates it by giving us notice or determines that it does not wish to secure from us a license for our technologies. The Material Transfer Agreement can also be terminated by either of us in the event the other party breaches the agreement and does not cure the breach within 30 days of notice from the other party. We cannot assure you that SPAHA will determine that it can commercialize our technologies or that the goals required for us to obtain progress payments from SPAHA will be achieved.

We have received no “progress payments” in relation to our Material Transfer Agreement with SPAHA. Progress payments could potentially total \$50,000 for the first cell line for which SPAHA uses our technology and \$25,000 for each use of the same technology thereafter. We do not know how many cell lines SPAHA may have and we currently have no indication from SPAHA that it intends to use any of our technologies in the foreseeable future.

Additionally, we also intend to sell a majority stake in these underlying assets via a non-core spin-out transaction.

### **Competition**

In general, the pharmaceutical and biotechnology industries are intensely competitive, characterized by rapid advances in products and technology. A number of companies have developed and continue to develop products that address the areas we have targeted. Some of these companies are major pharmaceutical companies and biotechnology companies that are international in scope and very large in size, while others are niche players that may be less familiar but have been successful in one or more areas we are targeting. Existing or future pharmaceutical, device, or other competitors may develop products that accomplish similar functions to our technologies in ways that are less expensive, receive faster regulatory approval, or receive greater market acceptance than our products. Many of our competitors have been in existence for considerably longer than we have, have greater capital resources, broader internal structure for research, development, manufacturing and marketing, and are in many ways further along in their respective product cycles.

While it is possible that eventually we may compete directly with major pharmaceutical companies, we believe it is more likely that we will enter into joint development, marketing, or other licensure arrangements with such competitors. Eventually, we believe that we will be acquired.

We also have a number of market areas in common with traditional skincare cosmetics companies, but in contrast to these companies, our products are based on unique, proprietary formulations and approaches. For example, we are unaware of any products in our targeted OTC skincare markets that are similar to our Pure-ific product. Further, proprietary protection of our products may help limit or prevent market erosion until our patents expire.

### **Federal Regulation of Therapeutic Products**

All of the prescription drugs we currently contemplate developing will require approval by the FDA prior to sales within the United States and by comparable foreign agencies prior to sales outside the United States. The FDA and comparable regulatory agencies impose substantial requirements on the manufacturing and marketing of pharmaceutical products and medical devices. These agencies and other entities extensively regulate, among other things, research and development activities and the testing, manufacturing, quality control, safety, effectiveness, labeling, storage, record keeping, approval, advertising and promotion of our proposed products. While we attempt to minimize and avoid significant regulatory bars when formulating our products, some degree of regulation from these regulatory agencies is unavoidable. Some of the things we do to attempt to minimize and avoid significant regulatory bars include the following:

- Using chemicals and combinations already allowed by the FDA;

- Using drugs that have been previously approved by the FDA and that have a long history of safe use; and
- Using chemical compounds with known safety profiles.

The regulatory process required by the FDA, through which our drug or device products must pass successfully before they may be marketed in the U.S., generally involves the following:

- Pre-clinical laboratory and animal testing;
- Submission of an application that must become effective before clinical trials may begin;
- Adequate and well-controlled human clinical trials to establish the safety and efficacy of the product for its intended indication; and
- FDA approval to market a given product for a given indication after the appropriate application has been filed.

For pharmaceutical products, pre-clinical tests include laboratory evaluation of the product, its chemistry, formulation and stability, as well as animal studies to assess the potential safety and efficacy of the product. Where appropriate (for example, for human disease indications for which there exist inadequate animal models), we will attempt to obtain preliminary data concerning safety and efficacy of proposed products using carefully designed human pilot studies. We will require sponsored work to be conducted in compliance with pertinent local and international regulatory requirements, including those providing for Institutional Review Board approval, national governing agency approval and patient informed consent, using protocols consistent with ethical principles stated in the Declaration of Helsinki and other internationally recognized standards. We expect any pilot studies to be conducted outside the United States; but if any are conducted in the United States, they will comply with applicable FDA regulations. Data obtained through pilot studies will allow us to make more informed decisions concerning possible expansion into traditional FDA-regulated clinical trials.

If the FDA is satisfied with the results and data from pre-clinical tests, it will authorize human clinical trials. Human clinical trials typically are conducted in three sequential phases which may overlap. Each of the three phases involves testing and study of specific aspects of the effects of the pharmaceutical on human subjects, including testing for safety, dosage tolerance, side effects, absorption, metabolism, distribution, excretion and clinical efficacy.

Phase 1 clinical trials include the initial introduction of an investigational new drug into humans. These studies are closely monitored and may be conducted in patients, but are usually conducted in healthy volunteer subjects. These studies are designed to determine the metabolic and pharmacologic actions of the drug in humans, the side effects associated with increasing doses, and, if possible, to gain early evidence on effectiveness. While the FDA can cause us to end clinical trials at any phase due to safety concerns, phase 1 clinical trials are primarily concerned with safety issues. We also attempt to obtain sufficient information about the drug's pharmacokinetics and pharmacological effects during phase 1 clinical trial to permit the design of well-controlled, scientifically valid, phase 2 studies.

Phase 1 studies also evaluate drug metabolism, structure-activity relationships, and the mechanism of action in humans. These studies also determine which investigational drugs are used as research tools to explore biological phenomena or disease processes. The total number of subjects included in phase 1 studies varies with the drug, but is generally in the range of 20 to 80.

Phase 2 clinical trials include the early controlled clinical studies conducted to obtain some preliminary data on the effectiveness of the drug for a particular indication or indications in patients with the disease or condition. This phase of testing also helps determine the common short-term side effects and risks associated with the drug. Phase 2 studies are typically well-controlled, closely monitored, and conducted in a relatively small number of patients, usually involving up to several hundred people.

Phase 3 studies are expanded controlled and uncontrolled trials. They are performed after preliminary evidence suggesting effectiveness of the drug has been obtained in phase 2, and are intended to gather the additional information about effectiveness and safety that is needed to evaluate the overall benefit-risk relationship of the drug. Phase 3 studies also provide an adequate basis for extrapolating the results to the general population and transmitting that information in the physician labeling. Phase 3 studies usually include several hundred to several thousand people.

Applicable medical devices can be cleared for commercial distribution through a notification to the FDA under Section 510(k) of the applicable statute. The 510(k) notification must demonstrate to the FDA that the device is as safe and effective and substantially equivalent to a legally marketed or classified device that is currently in interstate commerce. Such devices may not require detailed testing. Certain high-risk devices that sustain human life, are of substantial importance in preventing impairment of human health, or that present a potential unreasonable risk of illness or injury, are subject to a more comprehensive FDA approval process initiated by filing a premarket approval, also known as a “PMA,” application (for devices) or accelerated approval (for drugs).

We have established a core clinical development team and have been working with outside FDA consultants to assist us in developing product-specific development and approval strategies, preparing the required submittals, guiding us through the regulatory process, and providing input to the design and site selection of human clinical studies.

The testing and approval process requires substantial time, effort, and financial resources, and we may not obtain FDA approval on a timely basis, if at all. Success in preclinical or early-stage clinical trials does not assure success in later-stage clinical trials. The FDA or the research institution conducting the trials may suspend clinical trials or may not permit trials to advance from one phase to another at any time on various grounds, including a finding that the subjects or patients are being exposed to an unacceptable health risk. Once issued, the FDA may withdraw a product approval if we do not comply with pertinent regulatory requirements and standards or if problems occur after the product reaches the market. If the FDA grants approval of a product, the approval may impose limitations, including limits on the indicated uses for which we may market a product. In addition, the FDA may require additional testing and surveillance programs to monitor the safety and/or effectiveness of approved products that have been commercialized, and the agency has the power to prevent or limit further marketing of a product based on the results of these post-marketing programs. Further, later discovery of previously unknown problems with a product may result in restrictions on the product, including its withdrawal from the market.

Marketing our products abroad will require similar regulatory approvals by equivalent national authorities and is subject to similar risks. To expedite development, we may pursue some or all of our initial clinical testing and approval activities outside the United States, and in particular in those nations where our products may have substantial medical and commercial relevance. In some such cases, any resulting products may be brought to the U.S. after substantial offshore experience is gained. Accordingly, we intend to pursue any such development in a manner consistent with U.S. and International Council of Harmonisation (ICH) standards so that the resultant development data is maximally applicable for potential global approval.

OTC products are subject to regulation by the FDA and similar regulatory agencies, but the regulations relating to these products are much less stringent than those relating to prescription drugs and medical devices. The types of OTC products developed and previously sold by us only require that we follow cosmetic rules relating to labeling and the claims that we make about our product. The process for obtaining approval of prescription drugs with the FDA does not apply to the OTC products, which we have sold. The FDA can, however, require us to stop selling our product if we fail to comply with the rules applicable to our OTC products.

### **Management Changes**

On December 27, 2016, the Board of Directors unanimously voted to terminate Peter R. Culpepper, effective immediately, from all positions he held with the Company and each of its subsidiaries, including Interim Chief Executive Officer and Chief Operating Officer of the Company, for cause, in accordance with the terms of his employment agreement based on the results of the investigation conducted by the Special Committee of the Board of Directors regarding improper expense advances and reimbursements to Mr. Culpepper. The Board of Directors has previously established a search committee to identify a permanent Chief Executive Officer after Dr. Dees’ resignation effective February 27, 2016. In the interim, Timothy C. Scott, Ph.D., the Company’s President, will perform the functions of the chief executive officer position in his capacity as President while the chief executive officer position remains vacant.

### **Employees**

We currently have two employees, both of whom are full-time employees, and an independent contractor, John R. Glass, our Interim Chief Financial Officer. We also currently engage four full-time consultants, including a Director of Clinical Operations, a clinical data associate, a project manager, and an information technology consultant.

## Available Information

Our website is located at [www.pvct.com](http://www.pvct.com). We make available free of charge through this website our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed with or furnished to the SEC pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as soon as reasonably practicable after they are electronically filed with or furnished to the SEC. Reference to our website does not constitute incorporation by reference of the information contained on the site and should not be considered part of this document.

All filings made by us with the SEC may be copied or read at the SEC's Public Reference Room at 100 F Street NE, Washington, D.C. 20549. Information on the operation of the Public Reference Room may be obtained by calling the SEC at 1-800-SEC-0330. The SEC also maintains an Internet site that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC as we do. The website is <http://www.sec.gov>.

## ITEM 1A. RISK FACTORS.

Our business and its future performance may be affected by various factors, the most significant of which are discussed below.

***We are a development stage company, have no prescription drug products approved for commercial sale, have incurred substantial losses, and expect to incur substantial losses and negative operating cash flow for the foreseeable future.***

We are a development stage company that has no prescription drug products approved for commercial sale. We have never generated any substantial revenues and may never achieve substantial revenues or profitability. As of December 31, 2016, we have incurred net losses of \$205 million in the aggregate since inception in January 2002. We expect to incur substantial losses and negative operating cash flow for the foreseeable future. We may never achieve or maintain profitability, even if we succeed in developing and commercializing one or more of our prescription drug candidates, OTC products, or non-core technologies. We also expect to continue to incur significant operating expenditures and anticipate that our operating and capital expenses may increase substantially in the foreseeable future as we:

- continue to develop and seek regulatory approval for our prescription drug candidates PV-10 and PH-10;
- seek licensure of PV-10, PH-10, our OTC products, and our other non-core technologies;
- further develop our non-core technologies;
- implement additional internal systems and infrastructure; and
- hire additional personnel.

We also expect to experience negative operating cash flow for the foreseeable future as we fund our operating losses and any future capital expenditures. As a result, we will need to generate significant revenues in order to achieve and maintain profitability. We may not be able to generate these revenues or achieve profitability in the future. Our failure to achieve or maintain profitability could negatively impact the value of our common stock.

All of our existing prescription drug candidates are in early to intermediate stages of development. It may be several years, if ever, until we have a prescription drug product available for commercial resale. If we do not successfully develop and license or commercialize our prescription drug candidates, or sell or license our OTC products or non-core technologies, we will not achieve revenues or profitability in the foreseeable future, if at all. If we are unable to generate revenues or achieve profitability, we may be unable to continue our operations.

***We need additional capital to conduct our operations and commercialize and/or further develop our prescription drug candidates in 2017 and beyond, and our ability to obtain the necessary funding is uncertain.***

We need additional capital in 2017 and beyond as we continue to develop and seek commercialization of our prescription drug candidates. We intend to proceed as rapidly as possible with licensure of PH-10 on the basis of our expanding phase 2 atopic dermatitis and psoriasis results, which continue to be developed. We potentially may license PV-10 depending on the timing for the optimal deal structure for our stockholders. We are also focusing on PV-10 geographic licensing and partnering opportunities in such countries as China and India. We are also focusing on potential co-development partnering opportunities with combination of PV-10

and immune checkpoint blockade or systemic immunotherapy agents. We intend to also proceed as rapidly as possible with the sale or licensure of our OTC products and other non-core technologies. Although we believe that there is a reasonable basis for our expectation that we will become profitable due to both the licensure of PH-10 and PV-10, and the sale or licensure of our OTC products and non-core technologies, we cannot assure you that we will be able to achieve, or maintain, a level of profitability sufficient to meet our operating expenses.

We have based our estimate of capital needs on assumptions that may prove to be wrong, and we cannot assure you that estimates and assumptions will remain unchanged. For example, we are currently assuming that we will continue to operate without any significant staff or other resources expansion. On March 19, 2017, we entered into an exclusive Definitive Financing Commitment Term Sheet with a group of our stockholders, which was amended and restated effective as of March 19, 2017 (the "Term Sheet"), which sets forth the terms on which such investors will use their best efforts to provide financing to the Company in the minimum amount of \$10 million up to \$20 million (the "2017 Financing"). In connection with our entry into the Term Sheet, on March 20, 2017, we announced the termination of our offering of subscription rights to our existing common stockholders and holders of our class of warrants with an exercise price of \$0.85 expiring June 19, 2020 (the "Listed Warrants") to purchase units ("Units") consisting of shares of common stock and Series C Preferred Stock (the "Rights Offering"), without accepting any funds from investors. We intend to acquire additional funding through the financing contemplated by the Term Sheet, and we may also seek capital from public or private equity or debt financings or other financing sources that may be available. Such additional financing may not be available on acceptable terms, or at all. As discussed in more detail below, additional equity financing could result in significant dilution to stockholders. Further, in the event that additional funds are obtained through licensing or other arrangements, these arrangements may require us to relinquish rights to some of our products, product candidates, and technologies that we would otherwise seek to develop and commercialize ourselves. If sufficient capital is not available, we may be required to delay, reduce the scope of, or eliminate one or more of our programs, any of which could have a material adverse effect on our business and may impair the value of our patents and other intangible assets.

***There is substantial doubt as to our ability to continue as a going concern.***

Our cash and cash equivalents were \$1,165,738 at December 31, 2016, compared with \$14,178,902 at December 31, 2015. We continue to incur significant operating losses, and management expects that significant on-going operating expenditures will be necessary to successfully implement our business plan and develop and market our products. These circumstances raise substantial doubt about our ability to continue as a going concern within one year after the date that the financial statements included elsewhere in this Annual Report on Form 10-K are issued. Implementation of our plans and our ability to continue as a going concern will depend upon our ability to develop PV-10 and raise additional capital.

Management believes that we have access to capital resources through possible public or private equity offerings (including the 2017 Equity Offering), exchange offers, debt financings, corporate collaborations or other means. In addition, we continue to explore opportunities to strategically monetize our lead drug candidate, PV-10, through potential licensing transactions, although there can be no assurance that we will be successful with such plans. We have historically been able to raise capital through equity offerings, although no assurance can be provided that we will continue to be successful in the future. If we are unable to raise sufficient capital through the 2017 Equity Offering or otherwise, we will not be able to pay our obligations as they become due.

***Our prescription drug candidates are at an intermediary stage of development and may never obtain U.S. or international regulatory approvals required for us to commercialize our prescription drug candidates.***

We will need approval of the FDA to commercialize our prescription drug candidates in the U.S. and approvals from the FDA equivalent regulatory authorities in foreign jurisdictions to commercialize our prescription drug candidates in those jurisdictions.

We are continuing to pursue clinical development of our most advanced prescription drug candidates, PV-10 and PH-10, for use as treatments for specific conditions. The continued and further development of these prescription drug candidates will require significant additional research, formulation and manufacture development, and pre-clinical and extensive clinical testing prior to their regulatory approval and commercialization. Pre-clinical and clinical studies of our prescription drug candidates may not demonstrate the safety and efficacy necessary to obtain regulatory approvals. Pharmaceutical and biotechnology companies have suffered significant setbacks in advanced clinical trials, even after experiencing promising results in earlier trials. Pharmaceutical drug and medical device products that appear to be promising at early stages of development may not reach the market or be marketed successfully for a number of reasons, including the following:

- a product may be found to be ineffective or have harmful side effects during subsequent pre-clinical testing or clinical trials,

- a product may fail to receive necessary regulatory clearance,
- a product may be too difficult to manufacture on a large scale,
- a product may be too expensive to manufacture or market,
- a product may not achieve broad market acceptance,
- others may hold proprietary rights that will prevent a product from being marketed, and
- others may market equivalent or superior products.

Satisfaction of the FDA's regulatory requirements typically takes many years, depends upon the type, complexity and novelty of the product candidate and requires substantial resources for research, development and testing. We cannot predict whether our research and clinical approaches will result in drugs that the FDA considers safe for humans and effective for indicated uses. The FDA has substantial discretion in the drug approval process and may require us to conduct additional nonclinical and clinical testing or to perform post-marketing studies. The approval process may also be delayed by changes in government regulation, future legislation or administrative action or changes in FDA policy that occur prior to or during our regulatory review. Delays in obtaining regulatory approvals may:

- delay commercialization of, and our ability to derive product revenues from, our product candidates;
- impose costly procedures on us; and
- diminish any competitive advantages that we may otherwise enjoy.

We do not expect any prescription drug and other product candidates that we are developing to be commercially available without a partner. Our research and product development efforts may not be successfully completed and may not result in any successfully commercialized products. Further, after commercial introduction of a new product, discovery of problems through adverse event reporting could result in restrictions on the product, including withdrawal from the market and, in certain cases, civil or criminal penalties.

Even if we comply with all FDA requests, we cannot be sure that we will ever obtain regulatory clearance for any of our prescription drug or other product candidates. Failure to obtain FDA approval of any of our product candidates will severely undermine our business by reducing our number of salable products and, therefore, corresponding product revenues.

In foreign jurisdictions, we must receive approval from the appropriate regulatory authorities before we can commercialize our drugs. Foreign regulatory approval processes generally include all of the risks associated with the FDA approval procedures described above.

***Our former Chief Executive Officer and Chairman of the Board of Directors, as well as our former Interim Chief Executive Officer and former Chief Financial Officer, received travel expense advancements, which may be deemed a violation of Section 402 of the Sarbanes-Oxley Act of 2002 and/or other federal securities laws.***

Our internal control testing for the year ended December 31, 2015 identified inadequate supporting documentation and lack of adequate review for the travel advances and expense reimbursements to H. Craig Dees, our former Chairman and Chief Executive Officer.

In February 2016, the Audit Committee initiated a review of Company procedures, policies and practices, including travel expense advancements and reimbursements to Dr. Dees. The Audit Committee retained independent counsel and an advisory firm with forensic accounting expertise to assist the Audit Committee in conducting the investigation. As part of the investigation, the Committee reviewed the Company's financial policies and procedures, including management expenses. The Audit Committee concluded that Dr. Dees did not produce receipts for most of the travel expense advances he received from 2013 to 2015, and that some receipts produced by Dr. Dees during this period appear to have been altered.

A subsequent investigation conducted by a special committee of the Board of Directors regarding travel expenses of Peter R. Culpepper, our former Interim Chief Executive Officer and Chief Operating Officer and former Chief Financial Officer, concluded that Mr. Culpepper did not produce receipts and/or proof of travel for certain travel expense advances he received.



Section 402 of the Sarbanes Oxley Act of 2002 prohibits personal loans to a director or executive officer of a public company. If the SEC were to institute proceedings to enforce a violation of this statute or other federal securities laws as a result of the travel advances to Dr. Dees or Mr. Culpepper, we may become a party to litigation or proceedings over these matters, and the outcome of such litigation or proceedings (including criminal, civil or administrative sanctions or penalties by the SEC), alone or in addition to the costs of litigation, may materially and adversely affect our business. The Company is unable to predict the extent of its ultimate liability with respect to the advances to Dr. Dees and Mr. Culpepper.

***We have identified a material weakness in our internal control over financial reporting, and our management has concluded that our disclosure controls and procedures are not effective. We cannot assure you that additional material weaknesses or significant deficiencies do not exist or that they will not occur in the future. If our internal control over financial reporting or our disclosure controls and procedures are not effective, we may not be able to accurately report our financial results or prevent fraud, which may cause investors to lose confidence in our reported financial information and may lead to a decline in our stock price.***

A “material weakness” is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of our financial statements will not be prevented or detected on a timely basis. Based on the results of management’s assessment and evaluation of our internal controls, our principal executive officer and principal financial officer concluded that our internal control over financial reporting was not effective due to the material weakness described below.

The Company has identified the following material weakness related to its travel expense advancement and reimbursement policies and procedures to Dr. Dees and Mr. Culpepper: (1) the documentation provided for an expenditure was not sufficient to support the authorization of such expenditure, (2) only the check register and not the supporting documentation was obtained by an executive officer approving the expenses incurred by another executive officer, and (3) there was not adequate reconciliation of travel advances to actual expenses. As a result, our management also has concluded that our disclosure controls and procedures are not effective such that the information relating to our Company required to be disclosed in the reports we file with the SEC (a) is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms and (b) is accumulated and communicated to our management to allow timely decisions regarding required disclosure.

We continue to aggressively remediate the material weakness in our internal controls over financial reporting. To do so, we have put in place more clearly defined, tighter controls, including a clear process for limiting, approving and documenting travel advances and expenses and appropriately managing them. Specifically, we have:

- Adopted a control enhancement to require the provision of all invoice copies along with the check register for appropriate approval, including all travel reimbursements separately approved;
- Established a policy so travel advances are no longer permitted; and
- Implemented a more formal and detailed travel and expense reimbursement policy.

In addition, we have replaced the independent consulting group previously utilized by management to aid in our documentation and testing of internal controls over financial reporting and appointed John Glass as our Interim Chief Financial Officer to assist in the organization and strategic operation of the Company as to its procedures and daily operations of the Company. We are also in the process of implementing many of the other recommendations made by counsel to the Audit Committee to remediate these issues, including the identification and recruitment of a permanent Chief Executive Officer and any other positions necessary. We believe the foregoing actions will continue to improve our internal control over financial reporting as well as our disclosure controls and procedures. We will continue to monitor the effectiveness of our internal control over financial reporting in the area affected by the material weakness discussed above, and will perform any additional procedures, as well as implement any new resources and policies, deemed necessary by our management to remediate the material weakness.

If we do not successfully remediate the material weakness described above, or if other material weaknesses or other deficiencies arise in the future, we may be unable to accurately report our financial results on a timely basis or prevent fraud, which could cause our reported financial results to be materially misstated and require restatement which could result in the loss of investor confidence, delisting or cause the market price of our common stock to decline.

***We depend on the successful completion of clinical trials for our product candidates, including PV-10. The positive clinical results obtained for our product candidates in prior clinical studies may not be repeated in future clinical studies.***

Before obtaining regulatory approval for the sale of our product candidates, including PV-10, we must conduct additional clinical trials to demonstrate the safety and efficacy of our product candidates. Clinical testing is expensive, difficult to design and implement, can take many years to complete and is uncertain as to outcome. Competition in clinical development has made it difficult to enroll patients at an acceptable rate in our clinical trials. Advances in medical technology could make our product candidates obsolete prior to completion of clinical testing. A failure of one or more of our clinical trials can occur at any stage of testing. The outcome of pre-clinical testing and early clinical trials may not be predictive of the success of later clinical trials, and interim results of a clinical trial do not necessarily predict final results. Moreover, pre-clinical and clinical data are often susceptible to varying interpretations and analyses, and many companies that have believed their product candidates performed satisfactorily in pre-clinical studies and clinical trials have nonetheless failed to obtain marketing approval for their products.

In October 2012, we presented final top-line data from the phase 2 trial of PV-10 for metastatic melanoma, and in March 2014, applied for BTM with the FDA, which was subsequently denied pending new clinical evidence that supports BTM. We (i) are conducting an expanded phase 1 trial of PV-10 for metastatic liver cancer; (ii) are conducting an exploratory phase 1 trial of PV-10 for neuroendocrine tumors (NET) metastatic to the liver; (iii) have completed a phase 1 clinical study of PV-10 for recurrent breast cancer; (iv) have completed a phase 1 trial of PV-10 in an investigator initiated study to ascertain the feasibility of detecting immune cell infiltrates in injected melanoma tumors which led to publication of data in 2016; (v) are conducting advanced immunologic profiling of clinical samples obtained in a phase 2 clinical trial for mechanism of action of PH-10 for psoriasis; (vi) have completed multiple phase 2 clinical trials of PH-10 for psoriasis and atopic dermatitis; (vii) have commenced a global phase 3 clinical trial to assess response to intralesional PV-10 versus that of investigator's choice of systemic chemotherapy or intralesional oncolytic viral therapy in patients with melanoma confined to cutaneous and subcutaneous sites; and (viii) have commenced a phase 1b/2 study of PV-10 and Merck's KEYTRUDA in late stage melanoma. While we have experience with earlier phase clinical development, we have never conducted a phase 3 clinical trial. The positive results we have seen to date in our phase 2 clinical trials of PV-10 for metastatic melanoma do not ensure that later clinical trials will demonstrate similar results. Product candidates in later stages of clinical trials may fail to show the desired safety and efficacy characteristics despite having progressed satisfactorily through pre-clinical studies and initial clinical testing. A number of companies in the pharmaceutical and biotechnology industries, including those with greater resources and experience, have suffered significant setbacks in phase 3 clinical development, even after seeing promising results in earlier clinical trials.

We may experience a number of unforeseen events during clinical trials for our product candidates, including PV-10, that could delay or prevent the commencement and/or completion of our clinical trials, including the following:

- regulators or institutional review boards may not authorize us or our investigators to commence a clinical trial or conduct a clinical trial at a prospective trial site;
- the clinical study protocol may require one or more amendments delaying study completion;
- clinical trials of our product candidates may produce negative or inconclusive results, and we may decide, or regulators may require us, to conduct additional clinical trials or abandon product development programs;
- the number of subjects required for clinical trials of our product candidates may be larger than we anticipate, subjects may drop out of these clinical trials at a higher rate than we anticipate and enrollment in these clinical trials has been significantly slower than we anticipated so we have had to expand our geographic scope of enrollment of patients;
- clinical investigators or study subjects fail to comply with clinical study protocols;
- trial conduct and data analysis errors may occur, including, but not limited to, data entry and/or labeling errors;
- our third-party contractors may fail to comply with regulatory requirements or meet their contractual obligations to us in a timely manner, or at all;
- we might have to suspend or terminate clinical trials of our product candidates for various reasons, including a finding that the subjects are being exposed to unacceptable health risks;

- regulators or institutional review boards may require that we or our investigators suspend or terminate clinical research for various reasons, including noncompliance with regulatory requirements;
- the cost of clinical trials of our product candidates may be greater than we anticipate;
- the supply or quality of our clinical trial materials or other materials necessary to conduct clinical trials of our product candidates may be insufficient or inadequate; and
- our product candidates may have undesirable side effects or other unexpected characteristics, causing us or our investigators to suspend or terminate the trials.

We expect our research and development expenses to increase in connection with our ongoing activities, particularly as we expand our phase 3 clinical trial of PV-10 to achieve patient accrual needs with respect to PV-10 as planned, and undertake additional clinical trials of our other product candidates. Because successful development of our product candidates is uncertain, we are unable to estimate the actual funds required to complete research and development and commercialize our products under development; however, if the full \$20 million of the 2017 Equity Offering is raised, we believe the proceeds from the 2017 Equity Offering will be sufficient to fund the expansion of the geographical scope necessary to complete patient accrual in our ongoing phase 3 clinical trial of PV-10 and continue our current development activities with respect to PV-10.

Negative or inconclusive results of our future clinical trials of PV-10, or any other clinical trial we conduct, could cause the FDA to require that we repeat or conduct additional clinical studies. Despite the results reported in earlier clinical trials for PV-10, we do not know whether any clinical trials we may conduct will demonstrate adequate efficacy and safety to result in regulatory approval to market our product candidates, including PV-10. If later stage clinical trials do not produce favorable results, our ability to obtain regulatory approval for our product candidates, including PV-10, may be adversely impacted.

***Delays in clinical trials are common and have many causes, and any delay could result in increased costs to us and jeopardize or delay our ability to obtain regulatory approval.***

Clinical testing is expensive, difficult to design and implement, can take many years to complete, and is uncertain as to outcome. We may experience delays in clinical trials at any stage of development and testing of our product candidates. Our planned clinical trials may not begin on time, have an effective design, enroll a sufficient number of subjects, or be completed on schedule, if at all. Events which may result in delays or unsuccessful completion of clinical trials, including our future clinical trials for PV-10, include the following:

- inability to raise funding, if necessary, to initiate or continue a trial;
- delays in obtaining regulatory approval to commence a trial;
- delays in reaching agreement with the FDA on final trial design;
- imposition of a clinical hold following an inspection of our clinical trial operations or trial sites by the FDA or other regulatory authorities;
- delays in reaching agreement on acceptable terms with prospective contract research organizations (CROs) and clinical trial sites;
- delays in obtaining required institutional review board (IRB) approval at each site;
- delays in recruiting suitable patients to participate in a trial;
- delays in having subjects complete participation in a trial or return for post-treatment follow-up;
- delays caused by subjects dropping out of a trial due to side effects or otherwise;
- delays caused by clinical sites dropping out of a trial;
- time required to add new clinical sites or to obtain regulatory approval and open sites in geographic regions beyond the sites initially planned; and
- delays by our contract manufacturers to produce and deliver sufficient supply of clinical trial materials.

If initiation or completion of any of our clinical trials for our product candidates, including PV-10, are delayed for any of the above reasons, our development costs may increase, the approval process could be delayed, any periods during which we may have the exclusive right to commercialize our product candidates may be reduced and our competitors may bring products to market before us. Any of these events could impair our ability to generate revenues from product sales and impair our ability to generate regulatory and commercialization milestones and royalties, all of which could have a material adverse effect on our business.

***Clinical trials are very expensive, time consuming and difficult to design and implement.***

Human clinical trials are very expensive and difficult to design and implement, in part because they are subject to rigorous regulatory requirements. The clinical trial process is also time consuming. We estimate that current or future clinical trials of our prescription drug candidates will take additional years to complete. Furthermore, failure can occur at any stage of the trials, and we could encounter problems that cause us to abandon or repeat clinical trials. The commencement and completion of clinical trials may be delayed by several factors, including:

- unforeseen safety issues;
- determination of dosing issues;
- lack of effectiveness during clinical trials;
- slower than expected rates of patient recruitment;
- inability to monitor patients adequately during or after treatment; and
- inability or unwillingness of medical investigators to follow our clinical protocols.

In addition, we or the FDA may suspend our clinical trials at any time if it appears that we are exposing participants to unacceptable health risks or if the FDA finds deficiencies in our submissions or the conduct of these trials.

***The results of our clinical trials may not support our claims concerning our prescription drug candidates.***

Even if our clinical trials are completed as planned, we cannot be certain that their results will support our claims concerning our prescription drug candidates. Success in pre-clinical testing and early clinical trials does not ensure that later clinical trials will be successful, and we cannot be sure that the results of later clinical trials will replicate the results of prior clinical trials and pre-clinical testing. The clinical trial process may fail to demonstrate that our product candidates are safe for humans or effective for indicated uses. This failure would cause us to abandon a product candidate and may delay development of other product candidates. Any delay in, or termination of, our clinical trials will delay our ability to commercialize our product candidates and generate product revenues. In addition, we anticipate that our clinical trials will involve only a small patient population. Accordingly, the results of such trials may not be indicative of future results over a larger patient population.

***Physicians and patients may not accept and use our prescription drug candidates.***

Even if the FDA approves our prescription drug candidates, physicians and patients may not accept and use them. Acceptance and use of our prescription drug products will depend upon a number of factors including:

- perceptions by members of the healthcare community, including physicians, about the safety and effectiveness of our prescription drug products;
- cost-effectiveness of our prescription drug products relative to competing products;
- availability of reimbursement for our prescription drug products from government or other healthcare payers; and
- effectiveness of marketing and distribution efforts by us and our licensees and distributors, if any.

Because we expect sales or licensure of our prescription drug candidates, if approved, to generate substantially all of our revenues for the foreseeable future, the failure of any of these drugs to find market acceptance would harm our business and could require us to seek additional financing.

***We have no sales, marketing or distribution capabilities for our prescription drug candidates or our OTC products and non-core technologies.***

We currently have no sales, marketing or distribution capabilities. We do not anticipate having the resources in the foreseeable future to allocate to the sales and marketing of our prescription drug candidates or our OTC products and non-core technologies. Our future success depends, in part, on our ability to enter into and maintain such collaborative relationships, the collaborator's strategic interest in the products under development and such collaborator's ability to successfully market and sell any such products. We intend to proceed as rapidly as possible with licensure of PH-10 on the basis of our Phase 2 atopic dermatitis and psoriasis results, which are in process of being further developed. We have determined that the most efficient use of our capital in further developing our OTC products is to license the products. There can be no assurance that we will be able to establish or maintain relationships with third party collaborators or develop in-house sales and distribution capabilities. To the extent that we depend on third parties for marketing and distribution, any revenues we receive will depend upon the efforts of such third parties, and there can be no assurance that such efforts will be successful. In addition, there can also be no assurance that we will be able to market and sell our product in the United States or overseas.

***We cannot be sure that our OTC products or non-core technologies will be licensed or sold in the marketplace.***

In order for our OTC products to become commercially successful and our non-core technologies to be further developed, we must license or sell those products and technologies. We have been discussing this strategy with interested groups, though we cannot be sure that we will be successful in licensing or selling such products or technologies.

***Competition in the prescription pharmaceutical and biotechnology industries is intense, and we may be unable to succeed if our competitors have more funding or better marketing.***

The pharmaceutical and biotechnology industries are intensely competitive. Other pharmaceutical and biotechnology companies and research organizations currently engage in or have in the past engaged in research efforts related to treatment of dermatological conditions or cancers of the skin, liver and breast, which may compete with our clinical trials for patients and investigator resources and have caused lesser enrollment than anticipated, and could lead to the development of products or therapies that could compete directly with the prescription drug and other product candidates, and OTC products that we are seeking to develop and market.

Many companies are also developing alternative therapies to treat cancer and dermatological conditions and, in this regard, are our competitors. Many of the pharmaceutical companies developing and marketing these competing products have significantly greater financial resources and expertise than we do in:

- research and development;
- manufacturing;
- preclinical and clinical testing;
- obtaining regulatory approvals; and
- marketing.

Smaller companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies that may compete with our efforts to establish similar collaborative arrangements. Academic institutions, government agencies, and other public and private research organizations may also conduct research, seek patent protection, and establish collaborative arrangements for research, clinical development, and marketing of products similar to ours. These companies and institutions compete with us in recruiting and retaining qualified scientific and management personnel as well as in acquiring technologies complementary to our programs.

In addition to the above factors, we expect to face competition in the following areas:

- product efficacy and safety;
- the timing and scope of regulatory consents;
- availability of resources;
- reimbursement coverage;
- price; and
- patent position, including potentially dominant patent positions of others.

Since our prescription candidates PV-10 and PH-10 have not yet been approved by the FDA or introduced to the marketplace, we cannot estimate what competition these products might face when they are finally introduced, if at all. We cannot assure you that these products will not face significant competition for other prescription drugs and generic equivalents.

***If we are unable to secure or enforce patent rights, trademarks, trade secrets or other intellectual property our business could be harmed.***

We may not be successful in securing or maintaining proprietary patent protection for our products and technologies we develop or license. In addition, our competitors may develop products similar to ours using methods and technologies that are beyond the scope of our intellectual property protection, which could reduce our anticipated sales. While some of our products have proprietary patent protection, a challenge to these patents can subject us to expensive litigation. Litigation concerning patents, other forms of intellectual property, and proprietary technology is becoming more widespread and can be protracted and expensive and can distract management and other personnel from performing their duties.

We also rely upon trade secrets, unpatented proprietary know-how, and continuing technological innovation to develop a competitive position. We cannot assure you that others will not independently develop substantially equivalent proprietary technology and techniques or otherwise gain access to our trade secrets and technology, or that we can adequately protect our trade secrets and technology.

If we are unable to secure or enforce patent rights, trademarks, trade secrets, or other intellectual property, our business, financial condition, results of operations and cash flows could be materially adversely affected. If we infringe on the intellectual property of others, our business could be harmed.

We could be sued for infringing patents or other intellectual property that purportedly cover products and/or methods of using such products held by persons other than us. Litigation arising from an alleged infringement could result in removal from the market, or a substantial delay in, or prevention of, the introduction of our products, any of which could have a material adverse effect on our business, financial condition, results of operations, and cash flows.

***If we do not update and enhance our technologies, they will become obsolete.***

The pharmaceutical market is characterized by rapid technological change, and our future success will depend on our ability to conduct successful research in our fields of expertise, to discover new technologies as a result of that research, to develop products based on our technologies, and to commercialize those products. While we believe that our current technology is adequate for our present needs, if we fail to stay at the forefront of technological development, we will be unable to compete effectively. Our competitors are using substantial resources to develop new pharmaceutical technologies and to commercialize products based on those technologies. Accordingly, our technologies may be rendered obsolete by advances in existing technologies or the development of different technologies by one or more of our current or future competitors.

***The resignation of our Chief Executive Officer and Chairman of the Board of Directors, the termination of our Interim Chief Executive Officer and Chief Operating Officer and former Chief Financial Officer and our searches for, and appointments of, a long-term Chief Executive Officer and a Chief Financial Officer creates uncertainties and could have a material adverse impact on our business.***

Effective February 27, 2016, Dr. Dees resigned as Chief Executive Officer and Chairman of the Board of Directors. Mr. Culpepper, who was then serving as our Chief Financial Officer and Chief Operating Officer, was appointed to serve as our Interim Chief Executive Officer until our Board of Directors completed its search process for a successor Chief Executive Officer to replace Dr. Dees. On December 27, 2016, the Board of Directors unanimously voted to terminate Mr. Culpepper, effective immediately, from all positions he held with the Company and each of its subsidiaries, including Interim Chief Executive Officer and Chief Operating Officer of the Company, for cause, in accordance with the terms of his employment agreement based on the results of the investigation conducted by the Special Committee of the Board of Directors regarding improper expense advances and reimbursements to Mr. Culpepper.

We face significant competition for executives with the qualifications and experience we are seeking. There can be no assurances concerning the timing or outcome of the Company's search for a new permanent Chief Executive Officer. The Company's ability to execute its business strategies may be adversely affected by the uncertainty associated with this transition.

Executive leadership transitions can be inherently difficult to manage and may cause disruption to our business. As a result of the recent changes in our management team, our existing management team has taken on substantially more responsibility, which has resulted in greater workload demands and could divert their attention away from certain key areas of our business. In addition, management transition inherently causes some loss of institutional knowledge, which can negatively affect strategy and execution, and our results of operations and financial condition could suffer as a result. The loss of services of one or more other members of senior management, or the inability to attract a qualified permanent Chief Executive Officer and Chief Financial Officer, could have a material adverse effect on our business.

***If we lose any of our key personnel, we may be unable to successfully execute our business plan.***

Our business is presently managed by two key employees and an independent contractor:

- Timothy C. Scott, Ph.D., our President;
- Eric A. Wachter, Ph.D. our Chief Technology Officer; and
- John R. Glass, our Interim Chief Financial Officer, who is an independent contractor.

In addition to their responsibilities for management of our overall business strategy, Drs. Scott and Wachter are our chief researchers in the fields in which we are developing and planning to develop our prescription drug and other product candidates, and our OTC products. The loss of any of these key employees could have a material adverse effect on our operations, and our ability to execute our business plan might be negatively impacted. Any of these key employees or Mr. Glass may leave their employment or consulting arrangement with us if they choose to do so, and we cannot assure you that we would be able to hire similarly qualified employees if any of our key employees or Mr. Glass should choose to leave.

***Because we have only two employees and an independent contractor in total, our management may be unable to successfully manage our business.***

In order to successfully execute our business plan, our management must succeed in all of the following critical areas:

- Researching diseases and possible therapies in the areas of oncology, dermatology and skin care, and biotechnology;
- Developing our prescription drug and other product candidates, and OTC products based on our research;
- Marketing and selling developed products;
- Obtaining additional capital to finance research, development, production, and marketing of our products; and
- Managing our business as it grows.

As discussed above, we currently have only two employees, both of whom are full-time employees and an independent contractor, John R. Glass, our Interim Chief Financial Officer, managing our business. The greatest burden of succeeding in the above areas, therefore, falls on Drs. Scott and Wachter and Mr. Glass. Focusing on any one of these areas may divert their attention from our other areas of concern and could affect our ability to manage other aspects of our business. We cannot assure you that our management will be able to succeed in all of these areas or, even if we do so succeed, that our business will be successful as a result. While we have not historically had difficulty in attracting employees, our small size and limited operating history may make it difficult for us to attract and retain employees in the future, which could further divert management's attention from the operation of our business.

***Anti-takeover provisions in our organizational documents and Delaware law may discourage or prevent a change of control, even if an acquisition would be beneficial to our stockholders, which could affect our stock price adversely and prevent attempts by our stockholders to replace or remove our current management.***

Our certificate of incorporation and bylaws contain provisions that could delay or prevent a change of control of our company or changes in our board of directors that our stockholders might consider favorable. Among other things, these provisions will:

- permit our board of directors to issue up to 25,000,000 shares of preferred stock which can be created and issued by the Board of Directors without prior stockholder approval, with rights senior to those of the common stock;
- provide that all vacancies on our board of directors, including as a result of newly created directorships, may, except as otherwise required by law, be filled by the affirmative vote of a majority of directors then in office, even if less than a quorum;
- require that any action to be taken by our stockholders must be effected at a duly called annual or special meeting of stockholders and not be taken by written consent;
- provide that stockholders seeking to present proposals before a meeting of stockholders or to nominate candidates for election as directors at a meeting of stockholders must provide advance notice in writing, and also specify requirements as to the form and content of a stockholder's notice;
- not provide for cumulative voting rights, thereby allowing the holders of a majority of the shares of common stock entitled to vote in any election of directors to elect all of the directors standing for election; and
- provide that special meetings of our stockholders may be called only by the board of directors or by such person or persons requested by a majority of the board of directors to call such meetings.

In addition, we are subject to the provisions of Section 203 of the Delaware General Corporation Law, which may prohibit certain business combinations with stockholders owning 15% or more of our outstanding voting stock. These and other provisions in our certificate of incorporation, bylaws and Delaware law could make it more difficult for stockholders or potential acquirers to obtain control of our Board of Directors or initiate actions that are opposed by our then-current Board of Directors, including delaying or impeding a merger, tender offer, or proxy contest involving our company. Any delay or prevention of a change of control transaction or changes in our Board of Directors could cause the market price of our common stock to decline.

***NYSE MKT has taken actions toward delisting our common stock, including suspending trading in our common stock.***

Pursuant to Section 1003(f)(v) of the NYSE MKT Company Guide, on October 13, 2016, the NYSE MKT immediately suspended trading in shares of our common stock and Listed Warrants and commenced delisting procedures as a result of the abnormally low trading price of our common stock. We are appealing the NYSE MKT decision to commence delisting procedures. On October 20, 2016, we submitted a request for a review of such delisting determination, and on November 10, 2016, we submitted to the Listing Qualifications Panel our written submission in connection with our appeal. The hearing before the Listing Qualifications Panel occurred on January 25, 2017. On January 31, 2017, we received notice from NYSE MKT that the Listing Qualifications Panel concurred with NYSE Regulation's determination to delist the Company's common stock and class of listed warrants. On February 14, 2017, we submitted a request for a review by the full Committee for Review to reconsider the decision of the Listing Qualifications Panel. The Committee for Review will consider the Company's request for review on March 30, 2017. In the event our appeal is unsuccessful, our common stock will be delisted from the NYSE MKT.

In addition, on November 23, 2016, we received notice from NYSE MKT indicating that we are not in compliance with Section 1003 (a)(iii) of the NYSE MKT Company Guide (requiring stockholders' equity of \$6.0 million or more if the Company has reported



losses from continuing operations and/or net losses in its five most recent fiscal years). As of December 31, 2016, we had stockholders' equity of approximately \$3,500,000. On December 22, 2016, we submitted a plan addressing how we intend to regain compliance with Section 1003(a)(iii) by May 23, 2018. If the plan is not accepted, NYSE Regulation will take action to cite our noncompliance with Section 1003(a)(iii) of the NYSE MKT Company Guide as an additional basis for delisting. If the plan is accepted, we will be subject to periodic reviews and continued compliance with the plan. If we are not in compliance with the continued listing standards as of May 23, 2018, or do not make progress consistent with the plan, NYSE MKT will initiate delisting proceedings.

***Our stock price is below \$5.00 per share and is treated as a "penny stock", which places restrictions on broker-dealers recommending the stock for purchase.***

Our common stock is defined as "penny stock" under the Exchange Act and its rules. The SEC has adopted regulations that define "penny stock" to include common stock that has a market price of less than \$5.00 per share, subject to certain exceptions. These rules include the following requirements:

- broker-dealers must deliver, prior to the transaction, a disclosure schedule prepared by the SEC relating to the penny stock market;
- broker-dealers must disclose the commissions payable to the broker-dealer and its registered representative;
- broker-dealers must disclose current quotations for the securities; and
- a broker-dealer must furnish its customers with monthly statements disclosing recent price information for all penny stocks held in the customer's account and information on the limited market in penny stocks.

Additional sales practice requirements are imposed on broker-dealers who sell penny stocks to persons other than established customers and accredited investors. For these types of transactions, the broker-dealer must make a special suitability determination for the purchaser and must have received the purchaser's written consent to the transaction prior to sale. If our common stock remains subject to these penny stock rules these disclosure requirements may have the effect of reducing the level of trading activity in the secondary market for our common stock. As a result, fewer broker-dealers may be willing to make a market in our stock, which could affect a shareholder's ability to sell their shares.

***Future sales by our stockholders may adversely affect our stock price and our ability to raise funds in new stock offerings.***

Sales of our common stock in the public market following any prospective offering could lower the market price of our common stock. Sales may also make it more difficult for us to sell equity securities or equity-related securities in the future at a time and price that our management deems acceptable.

***It is our general policy to retain any earnings for use in our operation.***

We have never declared or paid cash dividends on our common stock. We currently intend to retain all of our future earnings, if any, for use in our business and therefore do not anticipate paying any cash dividends on our common stock in the foreseeable future, although we intend to issue shares of common stock in satisfaction of the dividend payments due on our Series B Preferred Stock and Series C Preferred Stock.

#### **ITEM 1B. UNRESOLVED STAFF COMMENTS.**

None.

#### **ITEM 2. PROPERTIES.**

We currently lease approximately 6,000 square feet of space outside of Knoxville, Tennessee for our corporate office and operations. Our monthly rental charge for these offices is approximately \$5,000 per month, and the lease is on an annual basis, renewable for one year at our option. We have a lease commitment of \$0 as of December 31, 2016. We believe that these offices generally are adequate for our needs currently and in the immediate future.

### ITEM 3. LEGAL PROCEEDINGS.

Except as described below, we are not involved in any legal proceedings nor are we party to any pending claims that we believe could reasonably be expected to have a material adverse effect on our business, financial condition, or results of operations.

#### *Class Action Lawsuits*

On May 27, 2014, Cary Farrah and James H. Harrison, Jr., individually and on behalf of all others similarly situated (the “Farrah Case”), and on May 29, 2014, each of Paul Jason Chaney, individually and on behalf of all others similarly situated (the “Chaney Case”), and Jayson Dauphinee, individually and on behalf of all others similarly situated (the “Dauphinee Case”) (the plaintiffs in the Farrah Case, the Chaney Case and the Dauphinee Case collectively referred to as the “Plaintiffs”), each filed a class action lawsuit in the United States District Court for the Middle District of Tennessee against the Company, H. Craig Dees, Timothy C. Scott and Peter R. Culpepper (the “Defendants”) alleging violations by the Defendants of Sections 10(b) and 20(a) of the Exchange Act and Rule 10b-5 promulgated thereunder and seeking monetary damages. Specifically, the Plaintiffs in each of the Farrah Case, the Chaney Case and the Dauphinee Case allege that the Defendants are liable for making false statements and failing to disclose adverse facts known to them about the Company, in connection with the Company’s application to the FDA for Breakthrough Therapy Designation (“BTD”) of the Company’s melanoma drug, PV-10, in the Spring of 2014, and the FDA’s subsequent denial of the Company’s application for BTD.

On July 9, 2014, the Plaintiffs and the Defendants filed joint motions in the Farrah Case, the Chaney Case and the Dauphinee Case to consolidate the cases and transfer them to United States District Court for the Eastern District of Tennessee. By order dated July 16, 2014, the United States District Court for the Middle District of Tennessee entered an order consolidating the Farrah Case, the Chaney Case and the Dauphinee Case (collectively and, as consolidated, the “Securities Litigation”) and transferred the Securities Litigation to the United States District Court for the Eastern District of Tennessee.

On November 26, 2014, the United States District Court for the Eastern District of Tennessee (the “Court”) entered an order appointing Fawwaz Hamati as the Lead Plaintiff in the Securities Litigation, with the Law Firm of Glancy Binkow & Goldberg, LLP as counsel to Lead Plaintiff. On February 3, 2015, the Court entered an order compelling the Lead Plaintiff to file a consolidated amended complaint within 60 days of entry of the order.

On April 6, 2015, the Lead Plaintiff filed a Consolidated Amended Class Action Complaint (the “Consolidated Complaint”) in the Securities Litigation, alleging that Provectus and the other individual defendants made knowingly false representations about the likelihood that PV-10 would be approved as a candidate for BTD, and that such representations caused injury to Lead Plaintiff and other shareholders. The Consolidated Complaint also added Eric Wachter as a named defendant.

On June 5, 2015, Provectus filed its Motion to Dismiss the Consolidated Complaint (the “Motion to Dismiss”). On July 20, 2015, the Lead Plaintiff filed his response in opposition to the Motion to Dismiss (the “Response”). Pursuant to order of the Court, Provectus replied to the Response on September 18, 2015.

On October 1, 2015, the Court entered an order staying a ruling on the Motion to Dismiss pending a mediation to resolve the Securities Litigation in its entirety. A mediation occurred on October 28, 2015. On January 28, 2016, a settlement terms sheet (the “Terms Sheet”) was executed by counsel for the Company and counsel for the Lead Plaintiff in the consolidated Securities Litigation.

Pursuant to the Terms Sheet, the parties agreed, contingent upon the approval of the court in the consolidated Securities Litigation, to settle the cases as a class action on the basis of a class period of December 17, 2013 through May 22, 2014. The Company and its insurance carrier agreed to pay the total amount of \$3.5 million (the “Settlement Funds”), \$1.85 million of which was paid by the Company, and \$1.65 million of which was paid by the insurance carrier directly to the plaintiff’s trust escrow account.

A Stipulation of Settlement encompassing the details of the settlement and procedures for preliminary and final court approval was filed on March 8, 2016. The Stipulation of Settlement incorporates the provisions of the Terms Sheet and includes the procedures for providing notice to stockholders who bought or sold stock of the Company during the class period. The Stipulation of Settlement further provides for (1) the methodology of administering and calculating claims, final awards to stockholders, and supervision and distribution of the Settlement Funds and (2) the procedure for preliminary and final approval of the settlement of the Securities Litigation.

On April 7, 2016, the court in the Securities Litigation held a hearing on preliminary approval of the settlement, entered an order preliminarily approving the settlement, ordered that the class be notified of the settlement as set forth in the Stipulation of Settlement, and set a hearing on September 26, 2016 to determine whether the proposed settlement is fair, reasonable, and adequate to the class; whether the class should be certified and the plan of allocation of the Settlement Funds approved; whether to grant Lead Plaintiff's request for expenses and Lead Plaintiff's counsel's request for fees and expenses; and whether to enter judgment dismissing the Securities Litigation as provided in the Stipulation of Settlement. On September 16, 2016, the Lead Plaintiff notified the court that approximately 6,300 stockholders did not receive notification of the proposed settlement until late August 2016 because of the delayed receipt of potential Settlement Class Member information from a number of brokers. As a result, on September 22, 2016, the parties filed a joint motion requesting that the court extend the deadlines to file a Proof of Claim, request exclusion from the settlement, or file an objection to the settlement, and that the court schedule a continued settlement hearing. The court granted the motion, cancelling the settlement hearing that had been set for September 26 and re-setting the hearing to take place on December 12, 2016. On December 2, 2016, the Lead Plaintiffs' counsel reported to the court that there have been no requests for exclusion from the settlement and no objections to the proposed settlement. On December 12, 2016, the court held a final hearing on the fairness of the settlement and entered an order approving the settlement and dismissing the action with prejudice.

#### *Dees Collection Lawsuit*

On May 5, 2016, the Company filed a lawsuit in the United States District Court for the Eastern District of Tennessee at Knoxville against Dr. Dees and his wife, Virginia Godfrey (together with Dr. Dees, the "Defendants"). The Company alleges that between 2013 and the present, Dr. Dees received approximately \$2.4 million in advanced or reimbursed travel and entertainment expenses from the Company and that Dr. Dees did not use these funds for legitimate travel and entertainment expenses as he requested and the Company intended. Instead, the Company alleges that Dr. Dees created false receipts and documentation for the expenses and applied the funds to personal use. The Company and Dr. Dees are parties to a Stipulated Settlement Agreement dated June 6, 2014 (the "Kleba Settlement Agreement") that was negotiated to resolve certain claims asserted against Dr. Dees derivatively. Pursuant to the terms of the Kleba Settlement Agreement, Dr. Dees agreed to repay the Company compensation that was paid to him along with legal fees and other expenses incurred by the Company. As of the date of his resignation, Dr. Dees still owed the Company \$2,267,750 under the Kleba Settlement Agreement. Dr. Dees has failed to make such payment, and the Company has notified him that he is in default and demanded payment in full. Therefore, the Company is alleging counts of conversion, fraud, breach of fiduciary duty, breach of contract, breach of Kleba Settlement Agreement, unjust enrichment and punitive damages in this lawsuit. The Company is seeking that the Defendants be prohibited from disposing of any property that may have been paid for with the misappropriated funds, the Defendants be disgorged of any funds shown to be fraudulently misappropriated and that the Company be awarded compensatory damages in an amount not less than \$5 million. Furthermore, the Company is seeking for the damages to be joint and several as to the Defendants and that punitive damages be awarded against Dr. Dees in the Company's favor. The Company is also seeking foreclosure of the Company's first-priority security interest in the 1,000,000 shares of common stock granted by Dr. Dees to the Company as collateral pursuant to that certain Stock Pledge Agreement dated October 3, 2014, between Dr. Dees and the Company in order to secure Dr. Dees' obligations under the Kleba Settlement Agreement. The United States District Court for the Eastern District of Tennessee at Knoxville entered a default judgment against the Defendants on July 20, 2016; however, the Company cannot predict when these shares will be recovered by the Company. The Court recently issued a Temporary Restraining Order upon the Company's application for same upon notice that Dr. Dees was attempting to sell his shares of the Company's common stock. The Temporary Restraining Order was converted to a Preliminary Injunction on September 16, 2016, which order will remain in place until the resolution of the underlying lawsuit absent further court order or agreement of the parties, and the Company is presently engaged in discovery regarding damages. On March 15, 2017, the Court granted Ms. Godfrey's motion to set aside the default judgment against her and set a deadline of March 30, 2017 for Ms. Godfrey to file an answer to the Company's complaint. The Court also set the hearing date to determine damages with respect to the motion for default judgment against Dr. Dees for April 26, 2017.

#### *Mr. Culpepper Travel Expenses and Related Collection Efforts*

On December 27, 2016, the Company's Board of Directors unanimously voted to terminate Peter R. Culpepper, effective immediately, from all positions he held with the Company and each of its subsidiaries, including Interim Chief Executive Officer and Chief Operating Officer of the Company, for cause, in accordance with the terms of the Amended and Restated Executive Employment Agreement entered into by Peter R. Culpepper and the Company on April 28, 2014 (the "Culpepper Employment Agreement") based on the results of the investigation conducted by a Special Committee of the Board of Directors regarding improper travel expense advancements and reimbursements to Mr. Culpepper.

The Special Committee retained independent counsel and an advisory firm with forensic accounting expertise to assist the Special Committee in conducting the investigation. The Special Committee found that Mr. Culpepper received \$294,255 in travel expense

reimbursements and advances that were unsubstantiated. The Company seeks to recover from Mr. Culpepper the entire \$294,255 in unsubstantiated travel expense reimbursements and advances, as well as all attorney's fees and auditors'/experts' fees incurred by the Company in connection with the examination of his travel expense reimbursements.

Under the terms of the Culpepper Employment Agreement, Mr. Culpepper is owed no severance payments as a result of his termination "For Cause" as that term is defined in the Culpepper Employment Agreement. Under section 6 of the Culpepper Employment Agreement, "Effect of Termination," a termination "For Cause" terminates any payments due to Mr. Culpepper as of the last day of his employment. Furthermore, Mr. Culpepper is no longer entitled to the 2:1 credit under the Kleba Settlement Agreement (see Note 11 to the financial statements), such that the total \$2,240,000 owed by Mr. Culpepper pursuant to the Kleba Settlement Agreement plus Mr. Culpepper's proportionate share of the litigation cost in the amount of \$227,750 less the amount that he repaid as of December 31, 2016 is immediately due and payable. The Company sent Mr. Culpepper a notice of default in January 2017 for the total amount he owes the Company and intends to resolve these claims pursuant to the alternative dispute resolution provision of the Culpepper Employment Agreement. The Company has established a reserve of \$2,051,083 as of December 31, 2016, which amount represents the amount the Company currently believes Mr. Culpepper owes to the Company, while the Company pursues collection of this amount.

Mr. Culpepper disputes that he was terminated "for cause" under the Culpepper Employment Agreement and Mr. Culpepper has demanded this issue be resolved by mediation in accordance with the Culpepper Employment Agreement. The Company is in the process of responding to Mr. Culpepper's demand, and the mediation has been scheduled for June 28, 2017. Concurrently, the Company is seeking from Mr. Culpepper immediate payment of amounts due under the Kleba Settlement Agreement as noted above.

#### *The Bible Harris Smith Lawsuit*

On November 17, 2016, the Company filed a lawsuit in the Circuit Court for Knox County, Tennessee against Bible Harris Smith PC (BHS) for professional negligence, common law negligence and breach of fiduciary duty arising from accounting services provided by BHS to the Company. The Company alleges that between 2013 and the present, Dr. Dees received approximately \$2.4 million in advanced or reimbursed travel and entertainment expenses from the Company and that Dr. Dees did not submit back-up documentation in support of substantially all of the advances he received purportedly for future travel and entertainment expenses. The Company further alleges that had BHS provided competent accounting and tax preparation services, it would have discovered Dr. Dees's failure to submit back-up documentation supporting the advanced travel funds at the inception of Dr. Dees's conduct, and prevented the misuse of these and future funds. The Company has made a claim for damages against BHS in an amount in excess of \$3 million. The Complaint against BHS has been filed and served, an answer has been received and the parties have begun discovery.

#### *Other Regulatory Matters*

From time to time the Company receives subpoenas and/or requests for information from governmental agencies with respect to our business. We have received a subpoena from the staff of the SEC related to the travel expense advancements and reimbursements received by H. Craig Dees, our former Chief Executive Officer, and we have received a subsequent subpoena from the staff of the SEC related to the travel expense advancements and reimbursements received by Peter R. Culpepper, our former Interim Chief Executive Officer and Chief Operating Officer and former Chief Financial Officer. At this time, the staff's investigation into these matters remains ongoing. The Company is cooperating with the staff but cannot predict with any certainty what the outcome of the foregoing may be.

#### **ITEM 4. MINE SAFETY DISCLOSURES.**

Not applicable.

## **PART II**

#### **ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES.**

##### **Market Information and Holders**

On May 16, 2014, our common stock ceased to be traded on the OTCQB Marketplace operated by OTC Markets Group and began trading on the NYSE MKT. On October 13, 2016, NYSE MKT suspended trading of our common stock, due to the abnormally low

trading prices of our common stock, and on October 17, 2016 our common stock began trading on the OTCQB Marketplace. Our trading symbol remains “PVCT.” The following table sets forth the range of high and low sale prices of our common stock for the periods indicated since January 1, 2015:

	High	Low
<b>2015</b>		
First Quarter (January 1 to March 31)	\$0.93	\$0.76
Second Quarter (April 1 to June 30)	\$0.99	\$0.49
Third Quarter (July 1 to September 30)	\$0.70	\$0.32
Fourth Quarter (October 1 to December 31)	\$0.60	\$0.36
<b>2016</b>		
First Quarter (January 1 to March 31)	\$0.52	\$0.35
Second Quarter (April 1 to June 30)	\$0.53	\$0.31
Third Quarter (July 1 to September 30)	\$0.38	\$0.09
Fourth Quarter (October 1 to December 31)	\$0.10	\$0.01

The closing price for our common stock on March 10, 2017 was \$0.03. High and low sale price information was obtained from data provided by Yahoo! Inc.

As of March 10, 2017, we had 972 active shareholders of record of our common stock.

### Dividend Policy

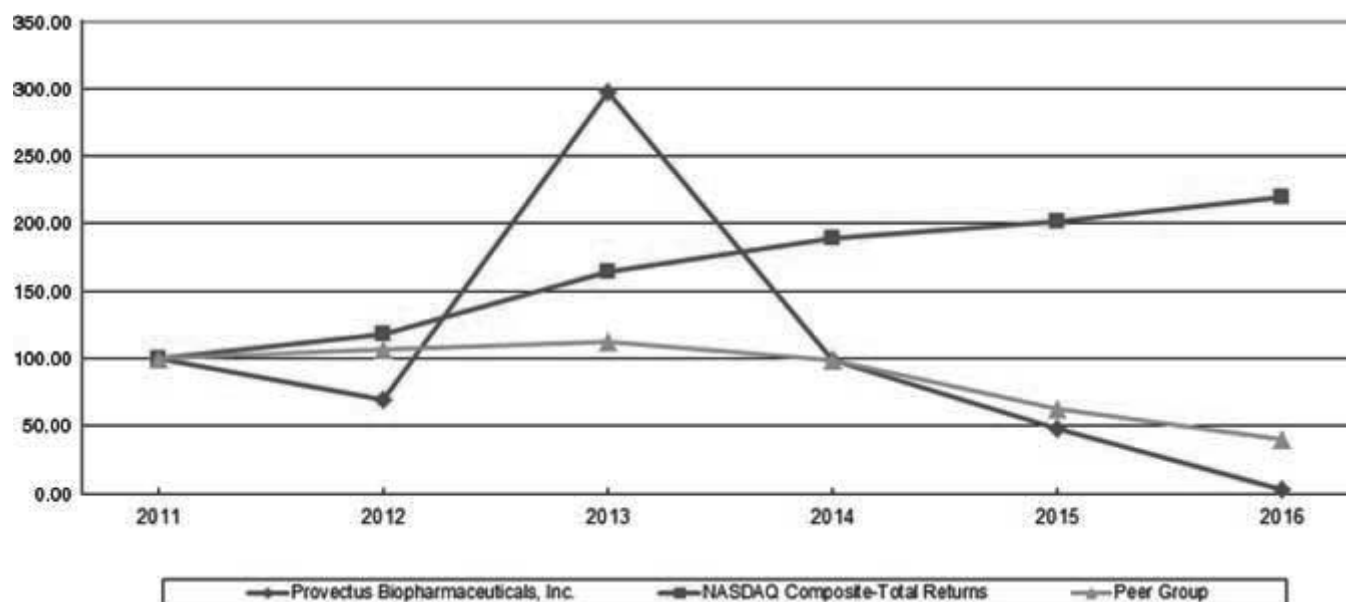
We have never declared or paid any cash dividends on our common stock. We currently plan to retain future earnings, if any, to finance the growth and development of our business and do not anticipate paying any cash dividends in the foreseeable future. We may incur indebtedness in the future which may prohibit or effectively restrict the payment of dividends, although we have no current plans to do so. Any future determination to pay cash dividends will be at the discretion of our board of directors.

The holders of our outstanding Series B Preferred Stock are entitled to receive cumulative dividends at the rate per share of 8% per annum of the stated value per share, until the fifth anniversary of the date of issuance of the Series B Preferred Stock. The dividends become payable, at our option, in either cash, out of any funds legally available for such purpose, or in shares of common stock, (i) upon any conversion of the Series B Preferred Stock, (ii) on each such other date as our board of directors may determine, subject to written consent of the holders of Series B Preferred Stock holding a majority of the then issued and outstanding Series B Preferred Stock, (iii) upon our liquidation, dissolution or winding up, and (iv) upon occurrence of a fundamental transaction, including any merger or consolidation, sale of all or substantially all of our assets, exchange or conversion of all of our common stock by tender offer, exchange offer or reclassification; provided, however, that if Series B Preferred Stock is converted into shares of common stock at any time prior to the fifth anniversary of the date of issuance of the Series B Preferred Stock, the holder will receive a make-whole payment in an amount equal to all of the dividends that, but for the early conversion, would have otherwise accrued on the applicable shares of Series B Preferred Stock being converted for the period commencing on the conversion date and ending on the fifth anniversary of the date of issuance, less the amount of all prior dividends paid on such converted Series B Preferred Stock before the date of conversion. Make-whole payments are payable at our option in either cash, out of any funds legally available for such purpose, or in shares of common stock. With respect to any dividend payments and make-whole payments paid in shares of common stock, the number of shares of common stock to be issued to a holder of Series B Preferred Stock will be an amount equal to the quotient of (i) the amount of the dividend payable to such holder divided by (ii) the conversion price then in effect.

### Stock Performance Graph

The following graph shows the changes, over the past five-year period, in the value of \$100 invested in Provectus common stock, the NASDAQ Composite Total Return Index and a Peer group of companies composed of development stage, biopharmaceutical companies that have a focus on developing oncology compounds. The graph assumes that all dividends are reinvested.

Comparison of 5 Year Cumulative Total Return  
Assumes Initial Investment of \$100  
December 2016



	2011	2012	2013	2014	2015	2016
Provectus Biopharmaceuticals, Inc.	\$100.00	\$ 69.14	\$297.53	\$ 98.77	\$ 48.15	\$ 2.47
NASDAQ Composite-Total Returns	\$100.00	\$117.45	\$164.57	\$188.84	\$201.98	\$219.89
Peer Group	\$100.00	\$107.08	\$112.82	\$ 99.28	\$ 62.56	\$ 40.62

### Recent Issuances of Unregistered Securities

During the three months ended March 31, 2016, the Company issued 51,745 shares of common stock to consultants in exchange for services. Consulting costs charged to operations were \$20,163.

The issuances of the securities were exempt from the registration requirements of the Securities Act of 1933 by virtue of Section 4(a) (2) and Rule 506 promulgated under Regulation D thereunder as transactions not involving a public offering.

### Securities Authorized for Issuance under Equity Compensation Plans

Information about the securities authorized for issuance under our equity compensation plans will be set forth under the heading “Equity Compensation Plan Information” in the definitive Proxy Statement for our 2017 Annual Meeting of Stockholders, which will be filed with the SEC pursuant to Regulation 14A under the Exchange Act, incorporated by reference in Part III, Item 12 of this Annual Report on Form 10-K.

## ITEM 6. SELECTED FINANCIAL DATA.

The following table sets forth our selected consolidated financial data and has been derived from our audited consolidated financial statements. Consolidated balance sheets as of December 31, 2016 and 2015, as well as consolidated statements of operations for the years ended December 31, 2016, 2015, and 2014, and the report thereon are included elsewhere in this Annual Report on Form 10-K. The information below should be read in conjunction with our audited consolidated financial statements (and notes thereon) and “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” included below in Item 7.

	Years ended December 31,				
	2016	2015	2014	2013	2012
	(all amounts in thousands except per share data)				
<b>Consolidated Statement of Operations Data:</b>					
Gain on settlement – net of discount	\$ —	\$ —	\$ 4,178	\$ —	\$ —
Operating expenses					
Research and development	8,543	11,380	5,809	4,267	5,677
General and administrative	15,969	13,274	11,002	8,761	8,661
Total operating loss	(24,512)	(24,654)	(12,633)	(13,028)	(14,338)
Other income, net	85	152	2,390	(14,670)	1,769
Net loss	(24,427)	(24,502)	(10,243)	(27,698)	(12,569)
Dividend paid in-kind to preferred shareholders	(2,386)	—	—	—	—
Deemed dividend	(2,046)	—	—	—	—
Dividends on preferred stock	—	—	—	(1,188)	(183)
Net loss applicable to common stockholders	<u>\$ (28,859)</u>	<u>\$ (24,502)</u>	<u>\$ (10,243)</u>	<u>\$ (28,886)</u>	<u>\$ (12,752)</u>
Basic and diluted loss per common share	\$ (0.12)	\$ (0.13)	\$ (0.06)	\$ (0.22)	\$ (0.11)
Weighted average number of common shares outstanding – basic and diluted	233,850	195,662	175,828	132,001	112,987

	As of December 31,				
	2016	2015	2014	2013	2012
	(all amounts in thousands)				
<b>Consolidated Balance Sheet Data:</b>					
Cash, cash equivalents and marketable securities	\$ 1,166	\$ 14,179	\$ 17,392	\$ 15,696	\$ 1,222
Patents, net	2,241	2,913	3,584	4,255	4,926
Other assets	2,204	3,348	5,208	57	56
Total assets	5,611	20,440	26,184	20,008	6,204
Current liabilities	2,142	4,123	848	513	511
Long-term liability	—	—	147	12,866	1,300
Preferred stock	(0)	—	—	—	2
Common stock	364	205	185	160	118
Additional paid-in capital	208,328	196,908	181,299	152,520	122,626
Accumulated deficit	(205,223)	(180,796)	(156,294)	(146,051)	(118,353)
Total stockholders' equity	3,469	16,317	25,190	6,629	4,393

## ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

The following discussion is intended to assist in the understanding and assessment of significant changes and trends related to our results of operations and our financial condition together with our consolidated subsidiaries. This discussion and analysis should be read in conjunction with the consolidated financial statements and notes thereto included in this Annual Report on Form 10-K. Historical results and percentage relationships set forth in the statement of operations, including trends which might appear, are not necessarily indicative of future operations.

## **Critical Accounting Policies**

### *Use of Estimates*

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates, judgments and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Our significant estimates and assumptions include the collectability of long-term receivables, the recoverability and useful lives of long-lived assets, stock-based compensation, derivative liabilities and the valuation allowance related to our deferred tax assets. Certain of our estimates, including the carrying amount of the intangible assets, could be affected by external conditions, including those unique to us and general economic conditions. It is reasonably possible that these external factors could have an effect on our estimates and could cause actual results to differ from those estimates.

### *Long-Lived Assets*

We review the carrying values of our long-lived assets for possible impairment whenever an event or change in circumstances indicates that the carrying amount of the assets may not be recoverable. Any long-lived assets held for disposal are reported at the lower of their carrying amounts or fair value less cost to sell. Management has determined there to be no impairment.

### *Patent Costs*

Internal patent costs are expensed in the period incurred. Patents purchased are capitalized and amortized over the remaining life of the patent.

Patents at December 31, 2016 were acquired as a result of the merger with Valley Pharmaceuticals, Inc. (“Valley”) on November 19, 2002. The majority stockholders of Provectus also owned all of the shares of Valley and therefore the assets acquired from Valley were recorded at their carry-over basis. The patents are being amortized over the remaining lives of the patents, which range from 1-6 years. Annual amortization of the patents is expected to approximate \$671,000 in 2017, 2018 and 2019, and \$228,000 in 2020.

### *Long-Term Receivables*

We carry long-term receivables from certain current and former employees in connection with the Kleba Shareholder Derivative Lawsuit (see Note 12 to the financial statements). The long-term receivables are carried at their contractual amounts, less a reserve for any amounts deemed by management to be uncollectible. Management evaluates the collectability of the receivables at least quarterly. Management estimates the reserve for uncollectibility based on existing economic conditions, the financial conditions of the current and former employees, and the amount and age of past due receivables. Receivables are considered past due if full payment is not received by the contractual due date. Past due amounts are generally written off against the reserve for uncollectibility only after all collection attempts have been exhausted.

### *Stock-Based Compensation*

We measure the cost of services received in exchange for an award of equity instruments based on the fair value of the award. For employees, the fair value of the award is measured on the grant date and for non-employees, the fair value of the award is measured on the measurement date and re-measured on vesting dates and interim financial reporting dates until the service period is complete. The fair value amount is then recognized over the period during which services are required to be provided in exchange for the award, usually the vesting period. We compute the fair value of equity-classified warrants and options granted using the Black-Scholes option pricing model. Option valuation models require the input of highly subjective assumptions including the expected volatility factor of the market price of our common stock which is determined by reviewing our historical public market closing prices.

### *Research and Development*

Research and development costs are charged to expense when incurred. An allocation of payroll expenses to research and development is made based on a percentage estimate of time spent. The research and development costs include the following: payroll, consulting and contract labor, lab supplies and pharmaceutical preparations, legal, insurance, rent and utilities, and depreciation and amortization.



### *Derivative Instruments*

We evaluate our convertible instruments to determine if those contracts or embedded components of those contracts qualify as derivative financial instruments to be separately accounted for in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) Topic 815. The accounting treatment of derivative financial instruments requires that we record the conversion options and warrants at their fair values as of the inception date of the agreement and at fair value as of each subsequent balance sheet date. Any change in fair value is recorded as non-operating, non-cash income or expense for each reporting period at each balance sheet date. We reassess the classification of our derivative instruments at each balance sheet date. If the classification changes as a result of events during the period, the contract is reclassified as of the date of the event that caused the reclassification. Conversion options are recorded as a discount to the host instrument and are amortized as interest expense over the life of the underlying instrument.

The Monte-Carlo Simulation model was used to estimate the fair value of the warrants that were classified as derivative liabilities. The model includes subjective input assumptions that can materially affect the fair value estimates. The expected volatility is estimated based on the most recent historical period of time equal to the weighted average life of the warrants.

### *Fair Value of Financial Instruments*

We measure the fair value of financial assets and liabilities based on the guidance of ASC 820 “Fair Value Measurements and Disclosures” (“ASC 820”), which defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements.

ASC 820 defines fair value as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. ASC 820 also establishes a fair value hierarchy, which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. ASC 820 describes three levels of inputs that may be used to measure fair value:

Level 1 — quoted prices in active markets for identical assets or liabilities.

Level 2 — quoted prices for similar assets and liabilities in active markets or inputs that are observable.

Level 3 — inputs that are unobservable (for example, cash flow modeling inputs based on assumptions).

The carrying amounts of our financial assets and liabilities, such as cash and cash equivalents, short-term settlement receivable, other current assets, accounts payable and accrued expenses approximate fair values due to the short-term nature of these instruments.

### **Plan of Operation**

We have implemented our integrated business plan, including execution of the current and next phases in clinical development of our pharmaceutical products and continued execution of research programs for new research initiatives.

On December 27, 2016, the Board of Directors unanimously voted to terminate Peter R. Culpepper, effective immediately, from all positions he held with the Company and each of its subsidiaries, including Interim Chief Executive Officer and Chief Operating Officer of the Company, for cause. Mr. Culpepper had served as our Interim Chief Executive Officer while our Board of Directors conducted its search process for a successor Chief Executive Officer to replace H. Craig Dees, our former Chief Executive Officer (the “Former CEO”), who resigned effective February 27, 2016 as our Chief Executive Officer and Chairman of the Board of Directors, and prior to that, Mr. Culpepper had served as our Chief Financial Officer. Our Board of Directors also retained John R. Glass as our Interim Chief Financial Officer in April 2016. We also plan to continue operating with our four primary consultants and various vendor relationships and anticipate adding additional personnel or contract research organizations if necessary in the next 12 months. Our current plans also include minimal purchases of new property, plant and equipment, and increased research and development for additional clinical trials.

We believe that our investigational drugs PV-10 and PH-10 provide us with two products in multiple indications, which have been shown in clinical trials to be safe to treat serious cancers and diseases of the skin, and important immunologic data has been corroborated and characterized by institutions such as Moffitt Cancer Center in Tampa, Florida and the University of Illinois at

Chicago. We continue to develop clinical trials for these products to show their safety and efficacy, which we believe will continue to be shown based on data in previous studies, and which result in one or more license transactions with pharmaceutical and or biotech companies. Together with our non-core technologies, which we intend to sell or license in the future, we believe this combination represents the foundation for maximizing shareholder value this year and beyond.

## **Results of Operations**

### **Comparison of the Years Ended December 31, 2016 and 2015**

#### *Research and development*

Research and development costs totaling \$8,543,074 for 2016 included payroll of \$589,790, consulting and contract labor of \$6,355,102, lab supplies and pharmaceutical preparations of \$70,465, legal of \$330,684, insurance of \$243,569, rent and utilities of \$96,794, and depreciation and amortization expense of \$684,234. Research and development costs totaling \$11,379,689 for 2015 included payroll of \$2,292,710, consulting and contract labor of \$6,652,406, lab supplies and pharmaceutical preparations of \$1,115,140, legal of \$358,582, insurance of \$189,358, rent and utilities of \$87,208, and depreciation and amortization expense of \$684,285.

The overall decrease in research and development costs is due primarily to the decrease in lab supplies and pharmaceutical preparations of approximately \$1,000,000 in 2016 over 2015 due to lower investigational drug costs for the phase 3 study of PV-10 in locally advanced cutaneous melanoma and the phase 2 study of PH-10 mechanism of action, both of which commenced in the quarter ended March 31, 2015, as well as the phase 1 b/2 study of PV-10 in combination with pembrolizumab which commenced in the quarter ended September 30, 2015, and is also due to the decrease in payroll expense of approximately \$1,700,000 which was primarily due to reduced salary and other benefits associated with the departure of H. Craig Dees, our former Chief Executive Officer as well as due to the fact that we did not issue stock-based compensation during 2016.

#### *General and administrative*

General and administrative expense for 2016 totaled \$15,968,949. These expenses included legal fees totaling \$3,773,987, accounting fees of \$2,064,052, investor relations expense of \$1,936,005, reserve for doubtful accounts of \$906,215, public relations expense of \$617,659, payroll expense of \$1,263,685, travel expenses of \$875,037, financial expenses of \$524,483, director fees of \$335,000, conference expense of \$257,887, information technology expense of \$220,870, contributions of \$138,500, insurance expense of \$154,244, payroll and other taxes of \$54,411, rent and utilities expense totaling \$48,397, security expenses of \$53,039, office expense and other of \$109,322 and warrant incentive expense totaling \$2,718,407, less imputed interest income totaling \$82,248.

Expenses for 2015 totaled \$13,274,072. Included in these expenses were legal fees of \$3,055,858, accounting fees of \$532,361, financial expenses of \$691,841, investor relations expense of \$2,103,064, reserve for doubtful accounts of \$1,098,328, public relations expense of \$305,413, information technology expense of \$201,000, travel expenses totaling \$2,318,006, payroll and other taxes of \$144,733, rent and utilities of \$43,560, security expense of \$51,251, director fees of \$270,000, insurance expense of \$94,424, payroll expense of \$1,757,047 and office and other expenses totaling \$607,186.

The increase of \$2,694,877 was primarily the result of the company's investigations regarding improper travel expense advancements and reimbursements to Dr. Dees and Mr. Culpepper, the change in the Company's auditors and the preparation of two registration statements in 2016.

#### *Investment income*

Investment income is immaterial for all periods presented.

#### *Public offering issuance expense*

During the year ended December 31, 2016, we incurred issuance expense of \$436,248 associated with our August 2016 public offering of Series B Preferred Stock. The portion of issuance costs allocated to the derivative liability were included within the consolidated statement of operations during 2016. There was no public offering issuance expense in 2015.

### *Change in fair value of warrant liability*

Change in fair value of warrant liability increased by \$372,315 to a gain of \$518,875 in 2016 from a gain of \$146,560 in 2015, which is primarily a result of the reduction in our stock price which, in turn, reduces the fair value of the warrant liability.

## **Comparison of the Years Ended December 31, 2015 and 2014**

### *Gain on Settlement*

The gain on settlement, net of discount, of \$4,178,345 occurred in 2014 as a result from accounting for the settlement of the Shareholder Derivative Lawsuit described in Note 9 to the financial statements.

### *Research and development*

Research and development costs totaling \$11,379,689 for 2015 included payroll of \$2,292,710, consulting and contract labor of \$6,652,406, lab supplies and pharmaceutical preparations of \$1,115,140, legal of \$358,582, insurance of \$189,358, rent and utilities of \$87,208, and depreciation and amortization expense of \$684,285. Research and development costs totaling \$5,809,047 for 2014 included payroll of \$1,395,321, consulting and contract labor of \$2,355,780, lab supplies and pharmaceutical preparations of \$790,653, legal of \$384,061, insurance of \$115,957, rent and utilities of \$87,623, and depreciation and amortization expense of \$679,652.

The increase in consulting and contract labor of approximately \$4.3 million in 2015 over 2014 is primarily the result of the preparation, and commencement of phase 3 PV-10 for locally advanced cutaneous melanoma, phase 1b/2 for PV-10 in combination with pembrolizumab, and further development in other PV-10 and PH-10 programs. The increase in lab supplies and pharmaceutical preparations of approximately \$300,000 in 2015 over 2014 is primarily the result of the preparation of additional phase 3 PV-10 drug supply, as well as for other PV-10 programs, along with phase 2 PH-10 mechanism of action drug supply. The increase in payroll of approximately \$900,000 in 2015 over 2014 is the result of increased payroll expense and stock option expense. The increase in consulting and contract labor, lab supplies and pharmaceutical preparations, and payroll expense represents virtually all of the increase in research and development expenses in 2015 versus 2014.

### *General and administrative*

General and administrative expenses increased by \$2,271,746 for 2015 to \$13,274,072 from \$11,002,326 in 2014. General and administrative expenses were very similar for both periods; however, the increase is due to approximately \$1.85 million of accrued settlement expense to settle the existing class action lawsuit and \$1.1 million of reserve for uncollectible receivable from Dr. Dees related to the settlement receivable (see Note 9 to the financial statements) and partially offset by the lower stock price of our common stock during 2015 versus 2014, which resulted in lower noncash expenses charged to operations for the value of both common stock and warrants issued for services.

### *Investment income*

Investment income is immaterial for all periods presented.

### *Change in fair value of warrant liability*

Change in fair value of warrant liability decreased by \$2,237,833 to a gain of \$146,560 in 2015 from a gain of \$2,384,393 in 2014. This activity results from accounting for the warrant liability described in Notes 3(c), 3(d), 3(e) and 8 to the financial statements.

## **Liquidity and Capital Resources**

The Company's cash and cash equivalents were \$1,165,738 at December 31, 2016, compared with \$14,178,902 at December 31, 2015. The consolidated financial statements and notes thereto included in this Annual Report on Form 10-K have been prepared on a basis that contemplates the realization of assets and the satisfaction of liabilities and commitments in the normal course of business. We have continuing net losses and negative cash flows from operating activities. In addition, we have an accumulated deficit of \$205,223,420 as of December 31, 2016. These conditions raise substantial doubt about our ability to continue as a going concern within one year after the date that the financial statements included elsewhere in this Annual Report on Form 10-K are issued. Our financial statements do not include any adjustments to the amounts and classification of assets and liabilities that may be necessary should we be unable to continue as a going concern. Our ability to continue as a going concern depends on our ability to obtain

additional financing as may be required to fund current operations. Management's plans include selling its equity securities and obtaining other financing to fund its capital requirement and on-going operations, including the 2017 Financing discussed below; however, there can be no assurance the Company will be successful in these efforts. The financial statements do not include any adjustment that might be necessary if the Company is unable to continue as a going concern. Significant funds will be needed for the Company to continue and complete its Phase 3 clinical trials.

#### *August 2016 Offering*

On August 30, 2016, we closed a public offering of 240,000 shares of our Series B Convertible Preferred Stock, par value \$0.001 per share, which we refer to as the Series B Preferred Stock (which shares were initially convertible into an aggregate of 24,000,000 shares of our common stock), and warrants, which we refer to as the August 2016 Warrants, initially exercisable to purchase an aggregate of 24,000,000 shares of common stock at an exercise price of \$0.275 per share of common stock. On November 23, 2016, (i) the conversion price of the Series B Preferred Stock was reduced to \$0.0533 pursuant to the terms of the Series B Certificate of Designation and (ii) the exercise price of the August 2016 Warrants was set at \$0.0533 pursuant to the terms of the August 2016 Warrants. Accordingly, on November 28, 2016, we issued holders who had previously converted their shares of Series B Preferred Stock 112,442,685 shares of common stock pursuant to the price reset provisions in the Series B Certificate of Designation, and we were obligated to issue an additional 6,330,316 shares of common stock, which shares were being held in abeyance as of November 28, 2016 pursuant to beneficial ownership limitations. On December 16, 2016, we issued 3,165,158 of the shares being held in abeyance pursuant to beneficial ownership limitations, and on December 27, 2016, we issued the remaining 3,165,158 shares of common stock being held in abeyance pursuant to beneficial ownership limitations. Holders of August 2016 Warrants are entitled to exercise their August 2016 Warrants at the Adjusted Exercise Price and will receive an aggregate of 112,564,968 shares of common stock upon exercise of the August 2016 Warrants. The Series B Preferred Stock and August 2016 Warrants were sold together at a price of \$25.00 for a combination of one share of Series B Preferred Stock and 100 August 2016 Warrants to purchase one share of common stock each, resulting in gross offering proceeds of \$6,000,000 to us before the payment of placement agent fees and expenses related to the offering.

#### *Convertible Promissory Note*

On February 21, 2017, we issued a convertible promissory note in favor of Eric A. Wachter, the Company's Chief Technology Officer ("Lender"), evidencing an unsecured loan from Lender to the Company in the original principal amount of up to \$2,500,000 (the "Promissory Note"). Interest accrues on the outstanding balance of the Promissory Note at six percent (6%) per annum calculated on a 360-day basis.

The Promissory Note matures on the earlier of (i) May 22, 2017, (ii) the date upon which the Company defaults under the Promissory Note or (iii) the date on which the Promissory Note is converted into New Securities (the earliest of such dates, the "Maturity Date"). In lieu of repayment on the Maturity Date, Lender may elect in his sole discretion to apply any and all amounts due and owing to Lender under the Promissory Note to Lender's obligations under that certain Settlement Agreement dated June 6, 2014 by and between Lender and the Company in connection with the settlement of the Kleba shareholder derivative lawsuit (see Note 11 to the financial statements).

As of March 29, 2017, we have borrowed the entire \$2,500,000 principal amount under the Promissory Note. Sixty percent (60%) of the proceeds advanced under the Promissory Note must be used for our research and development expenses, and the remaining forty percent (40%) of the proceeds advanced under the Promissory Note must be used for our general administrative expenses.

Pursuant to the terms of the Promissory Note, in the event that, prior to the repayment in full of the Promissory Note, the Company consummates a bona fide equity financing conducted with the principal purpose of raising capital, pursuant to which the Company sells shares or units of an equity security or preferred equity approved by the board of directors, which board of directors must consist of at least a majority of the members on the board of directors serving as of the date of the Promissory Note (a "Qualified Equity Financing"), then such amount of the outstanding principal due under the Promissory Note plus all accrued but unpaid interest that may be included in the Qualified Equity Financing shall automatically convert into the equity securities or securities convertible into equity securities of the Company issued in such Qualified Equity Financing ("New Securities") at the price per New Security at which the Company issues any New Securities in any public or private offering during the period that the Promissory Note is outstanding and otherwise on the same terms (including the same rights, preferences and privileges) as the other investors that purchase New Securities in such Qualified Equity Financing.

Further, under the Promissory Note, we have agreed to pay to Lender up to \$25,000 for Lender's reasonable legal fees and expenses incurred in connection with the transactions contemplated by the Promissory Note. We may prepay principal and interest under the Promissory Note at any time, in whole or in part, without premium or other prepayment charges.

Pursuant to a Waiver of Rights Agreement, Lender further agreed to waive his rights (A) to foreclose on the assets of the Company or (B) to initiate, or cause the initiation of, any proceeding in bankruptcy or the appointment of any custodian, trustee or liquidator of the Company or of all or a portion of the Company's assets in the event of default under the Promissory Note so long as (i) any shares of Series C Preferred Stock of the Company issued pursuant to the Rights Offering commenced by the Company on January 30, 2017 remain outstanding (other than such shares of Series C Preferred Stock held by Lender) and (ii) a change in control of the Company has not occurred, which is any transaction that results in either (a) the shareholders of the Company not continuing to hold at least 50% of the voting interest in the Company after such transaction or (b) the directors of the Company serving on the board of directors as of February 21, 2017 no longer represent a majority of the outstanding board members. On March 24, 2017, the Company filed a Certificate of Elimination to cancel the Series C Preferred Stock with the Secretary of State of the State of Delaware since no shares of Series C Preferred Stock were issued or outstanding after the Company terminated the Rights Offering without accepting any subscriptions.

#### *Term Sheet for 2017 Financing*

On March 19, 2017, the Company entered into an exclusive Definitive Financing Commitment Term Sheet with a group of the Company's stockholders, which was amended and restated effective as of March 19, 2017 (the "Term Sheet"), which sets forth the terms on which such investors will use their best efforts to arrange for a financing of a minimum of \$10,000,000 and maximum of \$20,000,000 (the "2017 Financing"), \$2,500,000 of which will be funded into Escrow (as defined below) upon the execution of definitive documents, and, the \$2,500,000 Promissory Note will be exchanged for a Note (as defined below) on the terms described below upon the funding of such first tranche into Escrow.

The 2017 Financing will be in the form of a secured convertible loan (the "Loan") from the investors (collectively, the "Investors"). The Loan will be evidenced by secured convertible promissory notes (each, a "Note") from the Company to the Investors. In addition to the customary provisions, the Note shall contain the following provisions:

- (i) It will be secured by a first priority security interest on the Company's intellectual property (the "IP");
- (ii) The Loan will bear interest at the rate of eight percent (8%) per annum on the outstanding principal amount of the Loan that has been funded to the Company;
- (iii) The Loan proceeds will be held in one or more accounts (the "Escrow") pending the funding of the tranches of the 2017 Financing pursuant to borrowing requests made by the Company;
- (iv) In the event there is a change of control of the Company's board of directors ("Board") as proposed by any person or group other than the Investors, the term of the Note will be accelerated and all amounts due under the Note will be immediately due and payable, plus interest at the rate of eight percent (8%) per annum, plus a penalty in the amount equal to ten times (10x) the outstanding principal amount of the Loan that has been funded to the Company;
- (v) The outstanding principal amount and interest payable under the Loan will be convertible at the sole discretion of the Investors into shares of the Company's Series D Preferred Stock, a new series of preferred stock to be designated by the Board, at a price per share equal to \$0.2862; and
- (vi) Notwithstanding (v) above, the principal amount of the Note and the interest payable under the Loan will automatically convert into shares of the Company's Series D Preferred Stock at a price per share equal to \$0.2862 effective on the 18 month anniversary of the funding of the final tranche of the 2017 Financing subject to certain exceptions.

The Series D Preferred Stock shall have a first priority right to receive proceeds from the sale, liquidation or dissolution of the Company or any of the Company's assets (each, a "Company Event"). If a Company Event occurs within two (2) years of the date of issuance of the Series D Preferred Stock (the "Date of Issuance"), the holders of Series D Preferred Stock shall receive a preference of four times (4x) their respective investment amount. If a Company Event occurs after the second (2nd) anniversary of the Date of Issuance, the holders of the Series D Preferred Stock shall receive a preference of six times (6x) their respective investment amount.

The Series D Preferred Stock shall be convertible at the option of the holders thereof into shares of the Company's common stock based on a formula to achieve a one-for-one conversion ratio. The Series D Preferred Stock shall automatically convert into shares of Common Stock upon the fifth anniversary of the Date of Issuance. On an as-converted basis, the Series D Preferred Stock shall carry the right to one (1) vote per share. The Series D Preferred Stock shall not have any dividend preference but shall be entitled to receive, on a pari passu basis, dividends, if any, that are declared and paid on any other class of the Company's capital

stock. The holders of Series D Preferred Stock shall not have anti-dilution protection.

### *Access to Capital*

Management plans to access capital resources through possible public or private equity offerings, including the 2017 Financing, exchange offers, debt financings, corporate collaborations or other means. We expect that the existing and forthcoming clinical and nonclinical mechanism of action data for both PV-10 and PH-10 will further aid in both regulatory clarity and transactions with potential partners. In addition, the Company continues to explore opportunities to strategically monetize its lead drug candidate, PV-10, through potential licensing transactions, although there can be no assurance provided that the Company will be successful with such plans. The Company has historically been able to raise capital through equity offerings, although no assurance can be provided that it will continue to be successful in the future. If the Company is unable to raise sufficient capital through the 2017 Financing or otherwise, it will not be able to pay its obligations as they become due.

The primary financial objective of our company is to strategically monetize the core value of PV-10 and PH-10 through the various transactions discussed elsewhere in this report. However, we cannot assure you that we will be successful in licensing either PV-10 or PH-10, entering into any equity transaction, or selling a majority stake of the OTC and other non-core assets via a spin-out transaction and licensing our existing non-core products. Moreover, even if we are successful in improving our current cash flow position, we nonetheless plan to seek additional funds to meet our long-term requirements in 2017 and beyond. We anticipate that these funds will otherwise come from the proceeds of private placements, the exercise of existing warrants and outstanding stock options, or public offerings of debt or equity securities, including the 2017 Financing. While we believe that we have a reasonable basis for our expectation that we will be able to raise additional funds, we cannot assure you that we will be able to complete additional financing in a timely manner. In addition, any such financing may result in significant dilution to stockholders.

During the years ended December 31, 2016, 2015 and 2014, our sources and uses of cash were as follows:

### *Net Cash Used in Operating Activities*

We experienced negative cash flow from operating activities for the years ended December 31, 2016, 2015 and 2014 in the amounts of \$21,936,734, \$17,410,217 and \$13,847,411, respectively. The net cash used in operating activities for the year ended December 31, 2016 was primarily due to cash used to fund a net loss of \$24,427,270, adjusted for non-cash expenses in the aggregate amount of \$4,246,391, plus \$1,755,855 of cash used to fund changes in the levels of operating assets and liabilities. The net cash used in operating activities for the year ended December 31, 2015 was primarily due to cash used to fund a net loss of \$24,502,340, adjusted for non-cash expenses in the aggregate amount of \$3,061,801, partially offset by \$4,030,322 of cash provided by changes in the levels of operating assets and liabilities. The net cash used in operating activities for the year ended December 31, 2014 was primarily due to cash used to fund a net loss of \$10,242,990, adjusted for non-cash income in the aggregate amount of \$3,027,864, plus \$576,557 of cash used to fund changes in the levels of operating assets and liabilities.

### *Net Cash Used in Investing Activities*

During the years ended December 31, 2015 and 2014, net cash used in investing activities was \$6,139 and \$70,590, respectively, which was used for capital expenditures.

### *Net Cash Provided by Financing Activities*

Net cash provided by financing activities during the years ended December 31, 2016, 2015 and 2014 was \$8,923,570, \$14,203,657 and \$15,613,359, respectively. During the year ended December 31, 2016, \$5,288,530 of net proceeds were from the sales of convertible preferred stock and warrants and \$3,635,040 of net proceeds were from the issuance of common stock and warrants pursuant to a warrant exchange offer. During the year ended December 31, 2015, \$13,653,927 of net proceeds were from sales of common stock and warrants and \$549,730 of proceeds were from option and warrant exercises. During the year ended December 31, 2014, \$11,122,602 of net proceeds were from sales of common stock and warrants and \$4,490,757 of proceeds were from option and warrant exercises.

### **Contractual Obligations—Leases**

We lease office and laboratory space in Knoxville, Tennessee on an annual basis, continuing for five years to January 1, 2020, unless 30 days' notice is given by either party to terminate the agreement.

### **Recent Accounting Pronouncements**

In May 2014, the FASB issued Accounting Standards Update ("ASU") No. 2014-09, "Revenue from Contracts with Customers" ("ASU 2014-09"), which supersedes nearly all existing revenue recognition guidance under U.S. GAAP. The core principle of ASU 2014-09 is to recognize revenues when promised goods or services are transferred to customers in an amount that reflects the consideration to which an entity expects to be entitled for those goods or services. ASU 2014-09 defines a five-step process to achieve this core principle and, in doing so, more judgment and estimates may be required within the revenue recognition process than are required under existing U.S. GAAP. The standard is effective for annual periods beginning after December 15, 2017, and interim periods therein, using either of the following transition methods: (i) a full retrospective approach reflecting the application of the standard in each prior reporting period with the option to elect certain practical expedients, or (ii) a retrospective approach with the cumulative effect of initially adopting ASU 2014-09 recognized at the date of adoption (which includes additional footnote disclosures). The Company is currently evaluating the impact of its pending adoption of ASU 2014-09 on its consolidated financial statements and have not yet determined the method by which it will adopt the standard in 2018. The Company currently does not have revenues but will consider any related impact going forward.

In June 2014, the FASB issued ASU No. 2014-12, "Accounting for Share-Based Payments When the Terms of an Award Provide That a Performance Target Could Be Achieved after the Requisite Service Period" ("ASU 2014-12"). ASU 2014-12 requires that a performance target that affects vesting, and that could be achieved after the requisite service period, be treated as a performance condition. As such, the performance target should not be reflected in estimating the grant date fair value of the award. This update further clarifies that compensation cost should be recognized in the period in which it becomes probable that the performance target will be achieved and should represent the compensation cost attributable to the period(s) for which the requisite service has already been rendered. The amendments in this ASU are effective for annual periods and interim periods within those annual periods beginning after December 15, 2015. The adoption of this ASU did not have a material impact on the Company's consolidated financial statements.

In August 2014, the FASB issued ASU No. 2014-15, "Presentation of Financial Statements – Going Concern (Subtopic 205-40): Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern" ("ASU 2014-15"). ASU 2014-15 explicitly requires management to evaluate, at each annual or interim reporting period, whether there are conditions or events that exist which raise substantial doubt about an entity's ability to continue as a going concern and to provide related disclosures. ASU 2014-15 is effective for annual periods ending after December 15, 2016, and annual and interim periods thereafter, with early adoption permitted. The Company adopted this ASU during 2016.

In November 2014, the FASB issued ASU No. 2014-16, "(Topic 815) Derivatives and Hedging" ("ASU 2014-16"), which provides clarification on how current guidance should be interpreted in evaluating the economic characteristics and risks of a host contract in a hybrid financial instrument that is issued in the form of a share. Specifically, the amendments clarify that an entity should consider all relevant terms and features in evaluating the host contract and that no single term or feature would necessarily determine the economic characteristics and risks of the host contract. ASU 2014-16 is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2015. The amendment should be applied on a modified retrospective basis to existing hybrid financial instruments issued in the form of a share as of the beginning of the year for which the amendments are effective. The adoption of this ASU did not have a material impact on the Company's consolidated financial statements.

In May 2015, the FASB issued ASU 2015-07, “Fair Value Measurement (Topic 820): Disclosures for Investments in Certain Entities That Calculate Net Asset Value per Share (or Its Equivalent)” (“ASU 2015-07”). ASU 2015-07 removes the requirement to categorize within the fair value hierarchy all investments for which fair value is measured using the net asset value per share practical expedient. The standard is effective for financial statements issued for interim and annual reporting periods beginning after December 15, 2015, and requires retrospective presentation. The adoption of this ASU did not have a material impact on the Company’s consolidated financial statements.

In February 2016, the FASB issued ASU No. 2016-02, “Leases” (“ASU 2016-02”), which amends the existing accounting standards for lease accounting, including requiring lessees to recognize most leases on their balance sheets and making targeted changes to lessor accounting. ASU 2016-02 will be effective beginning in the first quarter of 2019. Early adoption of ASU 2016-02 is permitted. The new standard requires a modified retrospective transition approach for all leases existing at, or entered into after, the date of initial application, with an option to use certain transition relief. The Company is currently evaluating the impact of adopting ASU 2016-02 on its consolidated financial statements.

In March 2016, the FASB issued ASU No. 2016-03, “Derivatives and Hedging (Topic 815): Contingent Put and Call Options in Debt Instruments,” which clarifies the requirements for assessing whether contingent call or put options that can accelerate the repayment of principal on debt instruments are clearly and closely related to their debt hosts. This guidance will be effective for annual reporting periods beginning after December 15, 2016, including interim periods within those annual reporting periods, and early adoption is permitted. The Company is currently evaluating the provisions of this guidance and assessing its impact on its consolidated financial statements and disclosures.

In March 2016, the FASB issued ASU No. 2016-06, “Derivatives and Hedging (Topic 815)”. The amendments apply to all entities that are issuers of, or investors in, debt instruments (or hybrid financial instruments in this Update that are determined to have a debt host) with embedded call (put) options. The amendments in this ASU clarify the requirements for assessing whether contingent call (put) options that can accelerate the payment of principal on debt instruments are clearly and closely related to their debt host. An entity performing the assessment under the amendments in this ASU is required to assess the embedded call (put) options solely in accordance with the four-step decision sequence. For public business entities, the amendments in this ASU are effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years. Early adoption is permitted, including adoption in an interim period. This ASU is not expected to have a material impact on the Company’s consolidated financial statements.

In March 2016, the FASB issued ASU No. 2016-08, “Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations (Reporting Revenue Gross versus Net).” This ASU amends the principal versus agent guidance in ASU 2014-09. Further, in April 2016, the FASB issued ASU No. 2016-10, Revenue from Contracts with Customers (Topic 606): Identifying Performance Obligations and Licensing. This ASU also amends ASU 2014-09 and is related to the identification of performance obligations and accounting for licenses. The effective date and transition requirements for both of these amendments to ASU 2014-09 are the same as those of ASU 2014-09, which was deferred for one year by ASU No. 2015-14, Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date. That is, the guidance under these standards is to be applied using a full retrospective method or a modified retrospective method, as outlined in the guidance, and is effective for annual periods, and interim periods within those annual periods, beginning after December 15, 2017. Early adoption is permitted only for annual periods, and interim period within those annual periods, beginning after December 15, 2016. The Company is currently evaluating the provisions of each of these standards and assessing their impact on its consolidated financial statements and disclosures.

In March 2016, the FASB issued ASU No. 2016-09, “Compensation-Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting.” This ASU makes targeted amendments to the accounting for employee share-based payments. This guidance is to be applied using various transition methods such as full retrospective, modified retrospective, and prospective based on the criteria for the specific amendments as outlined in the guidance. The guidance is effective for annual periods, and interim periods within those annual periods, beginning after December 15, 2016. Early adoption is permitted, as long as all of the amendments are adopted in the same period. The Company is currently evaluating the provisions of this guidance and assessing its impact on its consolidated financial statements and disclosures.

In September 2016, the FASB issued ASU No. 2016-15, “Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments,” which clarifies whether the following items should be categorized as operating, investing or financing



in the statement of cash flows: (i) debt prepayments and extinguishment costs, (ii) settlement of zero-coupon debt, (iii) settlement of contingent consideration, (iv) insurance proceeds, (v) settlement of corporate-owned life insurance (COLI) and bank-owned life insurance (BOLI) policies, (vi) distributions from equity method investees, (vii) beneficial interests in securitization transactions, and (viii) receipts and payments with aspects of more than one class of cash flows. The new standard takes effect in 2018 for public companies. If an entity elects early adoption, it must adopt all of the amendments in the same period. The Company is currently evaluating the provisions of this guidance and assessing its impact on its consolidated financial statements and disclosures.

In October 2016, the FASB issued ASU No. 2016-17, "Consolidation (Topic 810) – Interests Held through Related Parties That Are under Common Control" ("ASU 2016-17"). ASU 2016-17 requires, when assessing which party is the primary beneficiary in a VIE, that the decision maker considers interests held by entities under common control on a proportionate basis instead of treating those interests as if they were that of the decision maker itself, as current GAAP requires. The ASU is effective for annual periods, and interim periods therein, beginning after December 15, 2016. Early application is permitted in any interim or annual period. The Company is currently evaluating the provisions of this guidance and assessing its impact on its consolidated financial statements and disclosures.

In November 2016, the FASB issued ASU No. 2016-18, "Statement of Cash Flows (Topic 230) - Restricted Cash" ("ASU 2016-18"). ASU 2016-18 requires that restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The ASU is effective beginning after December 15, 2017, and interim periods within those fiscal years. Early adoption is permitted. The ASU should be applied using a retrospective transition method to each period presented. The Company is currently evaluating the provisions of this guidance and assessing its impact on its consolidated financial statements and disclosures.

## **Subsequent Events**

### *Convertible Promissory Note*

On February 21, 2017, the Company issued a convertible promissory note in favor of Eric A. Wachter, the Company's Chief Technology Officer ("Lender"), evidencing an unsecured loan from Lender to the Company in the original principal amount of up to \$2,500,000 (the "Promissory Note"). Interest accrues on the outstanding balance of the Promissory Note at six percent (6%) per annum calculated on a 360-day basis.

The Promissory Note matures on the earlier of (i) May 22, 2017, (ii) the date upon which the Company defaults under the Promissory Note or (iii) the date on which the Promissory Note is converted into New Securities (the earliest of such dates, the "Maturity Date"). In lieu of repayment on the Maturity Date, Lender may elect in his sole discretion to apply any and all amounts due and owing to Lender under the Promissory Note to Lender's obligations under that certain Settlement Agreement dated June 6, 2014 by and between Lender and the Company in connection with the settlement of the Kleba shareholder derivative lawsuit (see Note 11 to the financial statements).

As of March 29, 2017, we have borrowed the entire \$2,500,000 principal amount under the Promissory Note. Sixty percent (60%) of the proceeds advanced under the Promissory Note must be used for the Company's research and development expenses, and the remaining forty percent (40%) of the proceeds advanced under the Promissory Note must be used for the Company's general administrative expenses.

Pursuant to the terms of the Promissory Note, in the event that, prior to the repayment in full of the Promissory Note, the Company consummates a bona fide equity financing conducted with the principal purpose of raising capital, pursuant to which the Company sells shares or units of an equity security or preferred equity approved by the board of directors, which board of directors must consist of at least a majority of the members on the board of directors serving as of the date of the Promissory Note (a "Qualified Equity Financing"), then such amount of the outstanding principal due under the Promissory Note plus all accrued but unpaid interest that

may be included in the Qualified Equity Financing shall automatically convert into the equity securities or securities convertible into equity securities of the Company issued in such Qualified Equity Financing (“New Securities”) at the price per New Security at which the Company issues any New Securities in any public or private offering during the period that the Promissory Note is outstanding and otherwise on the same terms (including the same rights, preferences and privileges) as the other investors that purchase New Securities in such Qualified Equity Financing.

Further, under the Promissory Note, the Company has agreed to pay to Lender up to \$25,000 for Lender’s reasonable legal fees and expenses incurred in connection with the transactions contemplated by the Promissory Note. The Company may prepay principal and interest under the Promissory Note at any time, in whole or in part, without premium or other prepayment charges.

Pursuant to a Waiver of Rights Agreement, Lender further agreed to waive his rights (A) to foreclose on the assets of the Company or (B) to initiate, or cause the initiation of, any proceeding in bankruptcy or the appointment of any custodian, trustee or liquidator of the Company or of all or a portion of the Company’s assets in the event of default under the Promissory Note so long as (i) any shares of Series C Preferred Stock of the Company issued pursuant to the Rights Offering commenced by the Company on January 30, 2017 remain outstanding (other than such shares of Series C Preferred Stock held by Lender) and (ii) a change in control of the Company has not occurred, which is any transaction that results in either (a) the shareholders of the Company not continuing to hold at least 50% of the voting interest in the Company after such transaction or (b) the directors of the Company serving on the board of directors as of February 21, 2017 no longer represent a majority of the outstanding board members. On March 24, 2017, the Company filed a Certificate of Elimination to cancel the Series C Preferred Stock with the Secretary of State of the State of Delaware since no shares of Series C Preferred Stock were issued or outstanding after the Company terminated the Rights Offering without accepting any subscriptions.

#### *Termination of Rights Offering*

On October 5, 2016, the Company filed a registration statement on Form S-1 with the SEC, as amended on November 1, 2016, November 22, 2016, December 6, 2016, December 21, 2016, January 19, 2017 and January 26, 2017 to issue subscription rights (“Rights”) to the Company’s existing common stockholders and holders of the Company’s class of warrants with an exercise price of \$0.85 expiring June 19, 2020 (the “Listed Warrants”) to purchase units (“Units”) consisting of shares of common stock and Series C Preferred Stock (the “Rights Offering”). Each share of Series C Preferred Stock was to be convertible into eight (8) shares of common stock. Each Right would have entitled holders of the Company’s common stock and Listed Warrants to purchase one Unit. On March 20, 2017, the Company announced the termination of the Rights Offering without accepting any funds from investors. Broadridge Corporate Issuer Solutions, Inc., the subscription agent for the Rights Offering (“Broadridge”), returned all subscription payments received by Broadridge to investors, without interest or penalty. All subscription rights expired upon termination of the Rights Offering. On March 24, 2017, the Company filed a Certificate of Elimination to cancel the Series C Preferred Stock with the Secretary of State of the State of Delaware.

#### *Term Sheet for 2017 Financing*

On March 19, 2017, the Company entered into an exclusive Definitive Financing Commitment Term Sheet with a group of the Company’s stockholders, which was amended and restated effective as of March 19, 2017 (the “Term Sheet”), which sets forth the terms on which such investors will use their best efforts to arrange for a financing of a minimum of \$10,000,000 and maximum of \$20,000,000 (the “2017 Financing”), \$2,500,000 of which will be funded into Escrow (as defined below) upon the execution of definitive documents, and, the \$2,500,000 Promissory Note will be exchanged for a Note (as defined below) on the terms described below upon the funding of such first tranche into Escrow.

The 2017 Financing will be in the form of a secured convertible loan (the “Loan”) from the investors (collectively, the “Investors”). The Loan will be evidenced by secured convertible promissory notes (each, a “Note”) from the Company to the Investors. In addition to the customary provisions, the Note shall contain the following provisions:

- (i) It will be secured by a first priority security interest on the Company’s intellectual property (the “IP”);
- (ii) The Loan will bear interest at the rate of eight percent (8%) per annum on the outstanding principal amount of the Loan that has been funded to the Company;
- (iii) The Loan proceeds will be held in one or more accounts (the “Escrow”) pending the funding of the tranches of the 2017 Financing pursuant to borrowing requests made by the Company;

(iv) In the event there is a change of control of the Company's board of directors ("Board") as proposed by any person or group other than the Investors, the term of the Note will be accelerated and all amounts due under the Note will be immediately due and payable, plus interest at the rate of eight percent (8%) per annum, plus a penalty in the amount equal to ten times (10x) the outstanding principal amount of the Loan that has been funded to the Company;

(v) The outstanding principal amount and interest payable under the Loan will be convertible at the sole discretion of the Investors into shares of the Company's Series D Preferred Stock, a new series of preferred stock to be designated by the Board, at a price per share equal to \$0.2862; and

(vi) Notwithstanding (v) above, the principal amount of the Note and the interest payable under the Loan will automatically convert into shares of the Company's Series D Preferred Stock at a price per share equal to \$0.2862 effective on the 18 month anniversary of the funding of the final tranche of the 2017 Financing subject to certain exceptions.

The Series D Preferred Stock shall have a first priority right to receive proceeds from the sale, liquidation or dissolution of the Company or any of the Company's assets (each, a "Company Event"). If a Company Event occurs within two (2) years of the date of issuance of the Series D Preferred Stock (the "Date of Issuance"), the holders of Series D Preferred Stock shall receive a preference of four times (4x) their respective investment amount. If a Company Event occurs after the second (2nd) anniversary of the Date of Issuance, the holders of the Series D Preferred Stock shall receive a preference of six times (6x) their respective investment amount.

The Series D Preferred Stock shall be convertible at the option of the holders thereof into shares of the Company's common stock based on a formula to achieve a one-for-one conversion ratio. The Series D Preferred Stock shall automatically convert into shares of Common Stock upon the fifth anniversary of the Date of Issuance. On an as-converted basis, the Series D Preferred Stock shall carry the right to one (1) vote per share. The Series D Preferred Stock shall not have any dividend preference but shall be entitled to receive, on a pari passu basis, dividends, if any, that are declared and paid on any other class of the Company's capital stock. The holders of Series D Preferred Stock shall not have anti-dilution protection.

#### **ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.**

We had no holdings of financial or commodity instruments as of December 31, 2016, other than cash and cash equivalents, short-term deposits, money market funds, and interest bearing investments in U.S. governmental debt securities. We have accounted for certain warrants issued in March and April 2010, January 2011, February 2013 and August 2016 as liabilities at their fair value upon issuance, which were remeasured at each period end with the change in fair value recorded in the statement of operations. All such warrants were valued at \$0 as of December 31, 2016. See Note 10 of the consolidated financial statements contained in this Annual Report on Form 10-K.

All of our business is transacted in U.S. dollars and, accordingly, foreign exchange rate fluctuations have not had a significant impact on us, and they are not expected to have a significant impact on us in the foreseeable future. The formation of our Australian subsidiary is initially for the purpose of enabling lower clinical developments costs in Australia and will not impact our financial statements.

#### **ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.**

##### **INDEX TO FINANCIAL STATEMENTS**

	Page
Reports of Independent Registered Public Accounting Firms	48
Consolidated Balance Sheets as of December 31, 2016 and 2015	50
Consolidated Statements of Operations for the Years Ended December 31, 2016, 2015 and 2014	51
Consolidated Statements of Stockholders' Equity for the Years Ended December 31, 2016, 2015 and 2014	52
Consolidated Statements of Cash Flows for the Years Ended December 31, 2016, 2015 and 2014	53
Notes to Consolidated Financial Statements	54

## **Report of Independent Registered Public Accounting Firm**

To the Audit Committee of the  
Board of Directors and Shareholders of  
Provectus Biopharmaceuticals, Inc.

We have audited the accompanying consolidated balance sheet of Provectus Biopharmaceuticals, Inc. (the “Company”) as of December 31, 2016, and the related consolidated statements of operations, stockholders’ equity and cash flows for the year then ended. These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Provectus Biopharmaceuticals, Inc. as of December 31, 2016, and the consolidated results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), Provectus Biopharmaceuticals, Inc.’s internal control over financial reporting as of December 31, 2016, based on the criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013) and our report dated March 31, 2017 expressed an adverse opinion on the effectiveness of the Company’s internal control over financial reporting because of the existence of material weaknesses.

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 2 to the financial statements, the Company has suffered recurring losses from operations and has negative working capital. These matters raise substantial doubt about the Company’s ability to continue as a going concern. Management’s plans concerning these matters are also discussed in Note 2 to the financial statements. The accompanying financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ Marcum LLP

Marcum LLP  
New York, NY  
March 31, 2017

**Report of Independent Registered Public Accounting Firm**

Board of Directors and Stockholders  
Provectus Biopharmaceuticals, Inc.  
Knoxville, Tennessee

We have audited the accompanying consolidated balance sheet of Provectus Biopharmaceuticals, Inc., as of December 31, 2015 and the related consolidated statements of operations, stockholders' equity, and cash flows for each of the two years in the period ended December 31, 2015. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Provectus Biopharmaceuticals, Inc. at December 31, 2015, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2015, in conformity with accounting principles generally accepted in the United States of America.

/s/ BDO USA, LLP

Chicago, Illinois  
March 30, 2016

**PROVACTUS BIOPHARMACEUTICALS, INC.**

**CONSOLIDATED BALANCE SHEETS**

	December 31,	
	2016	2015
<b>Assets</b>		
Current Assets:		
Cash and cash equivalents	\$ 1,165,738	\$ 14,178,902
Short-term related party receivable - settlement	300,000	500,000
Other current assets	360,562	41,192
Total Current Assets	1,826,300	14,720,094
Equipment and furnishings, less accumulated depreciation of \$464,140 and \$451,028, respectively	72,033	85,145
Patents, net of accumulated amortization of \$9,473,978 and \$8,802,857, respectively	2,241,467	2,912,588
Long-term related party receivable – reimbursable legal fees, net of reserve for uncollectibility of \$445,500 and \$227,750, respectively	455,500	683,250
Long-term related party receivable – settlement, net of discount and reserve for uncollectibility of \$1,549,043 and \$870,578, respectively	1,015,710	2,011,735
Other assets	—	27,000
Total Assets	\$ 5,611,010	\$ 20,439,812
<b>Liabilities and Stockholders' Equity</b>		
Current Liabilities:		
Accounts payable - trade	\$ 1,919,870	\$ 1,887,171
Accrued consulting expense	—	133,282
Accrued settlement expense	—	1,850,000
Other accrued expenses	221,956	252,418
Total Liabilities	2,141,826	4,122,871
Commitments and contingencies		
Stockholders' Equity:		
Preferred stock; par value \$0.001 per share; 25,000,000 shares authorized; Series B Convertible Preferred Stock; 240,000 shares designated; 8,600 and 0 shares issued and outstanding at December 31, 2016 and 2015, respectively; aggregate liquidation preference of \$301,000 at December 31, 2016	9	—
Common stock; par value \$0.001 per share; 1,000,000,000 shares authorized; 364,773,297 and 204,979,100 shares issued and outstanding, respectively	364,773	204,979
Additional paid-in capital	208,327,822	196,908,112
Accumulated deficit	(205,223,420)	(180,796,150)
Total Stockholder's Equity	3,469,184	16,316,941
Total Liabilities and Stockholders' Equity	\$ 5,611,010	\$ 20,439,812

See accompanying notes to consolidated financial statements.

**PROVECTUS BIOPHARMACEUTICALS, INC.**

**CONSOLIDATED STATEMENTS OF OPERATIONS**

	For the Years Ended December 31,		
	<u>2016</u>	<u>2015</u>	<u>2014</u>
Gain on settlement - net of discount	\$ —	\$ —	\$ 4,178,345
Operating Expenses			
Research and development	8,543,074	11,379,689	5,809,047
General and administrative	15,968,949	13,274,072	11,002,326
Total Operating Loss	(24,512,023)	(24,653,761)	(12,633,028)
Investment income	2,126	4,861	5,645
Public offering issuance expense (See Note 4)	(436,248)	—	—
Gain (loss) on change in fair value of warrant liability	518,875	146,560	2,384,393
<b>Net Loss</b>	(24,427,270)	(24,502,340)	(10,242,990)
Dividend paid in-kind to preferred shareholders	(2,386,453)	—	—
Deemed dividend	(2,045,790)	—	—
<b>Net Loss Applicable to Common Shareholders</b>	<u>\$ (28,859,513)</u>	<u>\$ (24,502,340)</u>	<u>\$ (10,242,990)</u>
Basic and Diluted Loss Per Common Share	<u>\$ (0.12)</u>	<u>\$ (0.13)</u>	<u>\$ (0.06)</u>
Weighted Average Number of Common Shares Outstanding - Basic and Diluted	<u>233,849,589</u>	<u>195,661,859</u>	<u>175,828,004</u>

See accompanying notes to consolidated financial statements.

**PROVECTUS BIOPHARMACEUTICALS, INC.**

**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**

	Preferred Stock		Series B		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total
	Series A	Series B	Shares	Amount	Shares	Amount			
<b>Balance at January 1, 2014</b>	33,334	\$ 33	—	\$ —	159,751,724	\$159,752	\$ 152,519,701	\$(146,050,820)	\$ 6,628,666
Issuance of stock for services	—	—	—	—	300,000	300	417,950	—	418,250
Issuance of warrants for services	—	—	—	—	—	—	2,321,327	—	2,321,327
Reclassification of warrant liability	—	—	—	—	—	—	10,335,619	—	10,335,619
Cash proceeds from exercise of warrants and stock options	—	—	—	—	14,926,617	14,926	4,475,831	—	4,490,757
Issuance of common stock and warrants pursuant to Regulation D	—	—	—	—	9,784,600	9,785	11,112,817	—	11,122,602
Preferred stock conversions into common stock	(33,334)	(33)	—	—	33,334	33	—	—	—
Employee stock compensation from stock options	—	—	—	—	—	—	115,645	—	115,645
Net loss	—	—	—	—	—	—	—	(10,242,990)	(10,242,990)
<b>Balance at December 31, 2014</b>	—	\$ —	—	\$ —	184,796,275	\$184,796	\$ 181,298,890	\$(156,293,810)	\$ 25,189,876
Issuance of stock for services	—	—	—	—	305,627	306	202,508	—	202,814
Issuance of warrants for services	—	—	—	—	—	—	552,358	—	552,358
Cash proceeds from exercise of warrants and stock options	—	—	—	—	590,098	590	549,140	—	549,730
Issuance of common stock and warrants pursuant to Regulation D	—	—	—	—	1,787,100	1,787	1,552,990	—	1,554,777
Issuance of common stock and warrants pursuant to Section 5	—	—	—	—	17,500,000	17,500	12,081,650	—	12,099,150
Employee compensation from stock options	—	—	—	—	—	—	670,576	—	670,576
Net loss	—	—	—	—	—	—	—	(24,502,340)	(24,502,340)
<b>Balance at December 31, 2015</b>	—	\$ —	—	\$ —	204,979,100	\$204,979	\$ 196,908,112	\$(180,796,150)	\$ 16,316,941
Issuance of stock for services	—	—	—	—	51,745	52	20,111	—	20,163
Reclassification of warrant liability	—	—	—	—	—	—	3,160,114	—	3,160,114
Issuance of common stock and warrants pursuant to warrant exchange offer	—	—	—	—	7,798,507	7,798	6,345,649	—	6,353,447
Issuance of preferred stock and warrants	—	—	240,000	240	—	—	2,045,549	—	2,045,789
Preferred stock conversions into common stock	—	—	(231,400)	(231)	142,466,533	142,467	(142,236)	—	—
Dividend paid in-kind to preferred shareholders	—	—	—	—	9,477,412	9,477	(9,477)	—	—
Net loss	—	—	—	—	—	—	—	(24,427,270)	(24,427,270)
<b>Balance at December 31, 2016</b>	—	\$ —	—	\$ 9	364,773,297	\$364,773	\$ 208,327,822	\$(205,223,420)	\$ 3,469,184

See accompanying notes to consolidated financial statements.



**PROVACTUS BIOPHARMACEUTICALS, INC.**

**CONSOLIDATED STATEMENTS OF CASH FLOWS**

	For the Years Ended December 31,		
	2016	2015	2014
<b>Cash Flows From Operating Activities</b>			
Net loss	\$(24,427,270)	\$(24,502,340)	\$(10,242,990)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation	13,112	13,165	8,532
Amortization of patents	671,121	671,120	671,120
Warrant incentive expense	2,718,407	—	—
Compensation through issuance of stock options	—	670,576	115,645
Issuance of stock for services	20,163	202,814	418,250
Issuance of warrants for services	—	552,358	2,321,327
Public offering issuance expense (See Note 4)	436,248	—	—
Gain on change in fair value of warrant liability	(518,875)	(146,560)	(2,384,393)
Gain on settlement	—	—	(4,178,345)
Reserve for uncollectibility of settlement receivable	678,465	870,578	—
Reserve for uncollectibility of legal fees receivable	227,750	227,750	—
Changes in operating assets and liabilities:			
Settlement receivable	517,560	501,615	66,667
Other assets	(292,370)	253,558	(978,000)
Accounts payable	32,699	1,446,469	91,833
Accrued settlement expense	(1,850,000)	1,850,000	—
Accrued consulting and other accrued expense	(163,744)	(21,320)	242,943
<b>Net Cash Used In Operating Activities</b>	<u>(21,936,734)</u>	<u>(17,410,217)</u>	<u>(13,847,411)</u>
<b>Cash Flows From Investing Activities</b>			
Capital expenditures	—	(6,139)	(70,590)
<b>Net Cash Used In Investing Activities</b>	<u>—</u>	<u>(6,139)</u>	<u>(70,590)</u>
<b>Cash Flows From Financing Activities</b>			
Net proceeds from sales of common stock and warrants	—	13,653,927	11,122,602
Gross proceeds from sales of convertible preferred stock and warrants	6,000,000	—	—
Payment of offering costs in connection with August 2016 financing	(711,470)	—	—
Net proceeds from the issuance of common stock and warrants pursuant to warrant exchange offer	3,635,040	—	—
Proceeds from exercise of warrants and stock options	—	549,730	4,490,757
<b>Net Cash Provided By Financing Activities</b>	<u>8,923,570</u>	<u>14,203,657</u>	<u>15,613,359</u>
<b>Net Change In Cash and Cash Equivalents</b>	<u>(13,013,164)</u>	<u>(3,212,699)</u>	<u>1,695,358</u>
<b>Cash and Cash Equivalents, Beginning of Period</b>	<u>14,178,902</u>	<u>17,391,601</u>	<u>15,696,243</u>
<b>Cash and Cash Equivalents, End of Period</b>	<u>\$ 1,165,738</u>	<u>\$ 14,178,902</u>	<u>\$ 17,391,601</u>
<b>Supplemental Disclosures of Cash Flow Information:</b>			
Cash paid during the period for:			
Interest	\$ —	\$ —	\$ —
Taxes	\$ —	\$ —	\$ —
Non-cash investing and financing activities:			
Conversion of preferred stock into common stock	\$ 151,944	\$ —	\$ —
Deemed dividend	\$ 2,045,790	\$ —	\$ —
Issuance in-kind of preferred stock dividends	\$ 2,386,453	\$ —	\$ —
Reclassification of warrant liability to equity	\$ 3,160,144	\$ —	\$ 10,335,619

See accompanying notes to consolidated financial statements.

## PROVECTUS BIOPHARMACEUTICALS, INC.

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

#### ***1. Business Organization and Nature of Operations***

Provectus Biopharmaceuticals, Inc., a Delaware corporation (together with its subsidiaries, “Provectus” or the “Company”), is a biopharmaceutical company that is focusing on developing minimally invasive products for the treatment of psoriasis and other topical diseases, and certain forms of cancer including melanoma, breast cancer, and cancers of the liver. To date, the Company has not generated any revenues from planned principal operations. The Company’s activities are subject to significant risks and uncertainties, including failing to successfully develop and license or commercialize the Company’s prescription drug candidates, or sell or license the Company’s over-the-counter (“OTC”) products or non-core technologies.

#### ***2. Liquidity and Financial Condition***

The Company’s cash and cash equivalents were \$1,165,738 at December 31, 2016, compared with \$14,178,902 at December 31, 2015. The Company continues to incur significant operating losses and management expects that significant on-going operating expenditures will be necessary to successfully implement the Company’s business plan and develop and market its products. These circumstances raise substantial doubt about the Company’s ability to continue as a going concern within one year after the date that the financial statements are issued. Implementation of the Company’s plans and its ability to continue as a going concern will depend upon the Company’s ability to develop PV-10 and raise additional capital.

On October 13, 2016, the Company received notice from NYSE MKT that NYSE MKT commenced delisting procedures and immediately suspended trading in the Company’s common stock and class of warrants that was listed on NYSE MKT (“Listed Warrants”) and on October 17, 2016, our common stock began trading on the OTCQB Marketplace. On October 20, 2016, the Company submitted a request for a review of such delisting determination and on November 10, 2016, the Company submitted to the Listing Qualifications Panel its written submission in connection with its appeal. In addition, on November 23, 2016, the Company received notice from NYSE MKT stating that the Company is not in compliance with the Exchange’s continued listing standards. Specifically, the Company is not in compliance with Section 1003(a)(iii) of the NYSE MKT Company Guide (requiring stockholders’ equity of \$6.0 million or more if the Company has reported losses from continuing operations and/or net losses in its five most recent fiscal years). As of December 31, 2016, the Company had stockholders’ equity of approximately \$3.5 million. Accordingly, the Company has become subject to the procedures and requirements of Section 1009 of the NYSE MKT Company Guide and must submit a plan of compliance by December 23, 2016, addressing how the Company intends to regain compliance with Section 1003(a)(iii) by May 23, 2018.

The hearing before the Listing Qualifications Panel occurred on January 25, 2017. On January 31, 2017, the Company received notice from the Listing Qualifications Panel that it affirmed NYSE MKT’s original determination to delist the Company’s common stock and Listed Warrants. On February 14, 2017, the Company submitted a request for the Committee for Review to reconsider the Listing Qualification Panel’s decision. The Committee for Review considered the Company’s request for review on March 30, 2017.

On February 21, 2017, the Company issued a convertible promissory note in favor of Eric A. Wachter, the Company’s Chief Technology Officer, evidencing an unsecured loan from the lender to the Company in the original principal amount of up to \$2,500,000. See Note 13 – Subsequent Events.

The Company plans to access capital resources through possible public or private equity offerings, exchange offers, debt financings, corporate collaborations or other means. In addition, the Company continues to explore opportunities to strategically monetize its lead drug candidates, PV-10 and PH-10, through potential co-development and licensing transactions, although there can be no assurance that the Company will be successful with such plans. The Company has historically been able to raise capital through equity offerings, although no assurance can be provided that it will continue to be successful in the future. If the Company is unable to raise sufficient capital through the 2017 Financing or otherwise (see Note 13—Subsequent Events), it will not be able to pay its obligations as they become due.

### **3. Significant Accounting Policies**

#### **Principles of Consolidation**

Intercompany balances and transactions have been eliminated in consolidation.

#### **Use of Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates, judgments and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. The Company's significant estimates and assumptions include the collectability of long-term receivables, the recoverability and useful lives of long-lived assets, stock-based compensation, derivative liabilities and the valuation allowance related to the Company's deferred tax assets. Certain of the Company's estimates, including the carrying amount of the intangible assets, could be affected by external conditions, including those unique to the Company and general economic conditions. It is reasonably possible that these external factors could have an effect on the Company's estimates and could cause actual results to differ from those estimates.

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

The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents.

#### **Cash Concentrations**

Cash and cash equivalents are maintained at financial institutions and, at times, balances may exceed federally insured limits of \$250,000 although the Company seeks to minimize this through treasury management. The Company has never experienced any losses related to these balances.

#### **Equipment and Furnishings**

Equipment and furnishings are stated at cost less accumulated depreciation. Depreciation of equipment is provided for using the straight-line method over the estimated useful lives of the assets. Computers and laboratory equipment are being depreciated over five years; furniture and fixtures are being depreciated over seven years. Maintenance and repairs are charged to operations as incurred. The Company capitalizes cost attributable to the betterment of property and equipment when such betterment extends the useful life of the assets.

#### **Long-Lived Assets**

The Company reviews the carrying values of its long-lived assets for possible impairment whenever an event or change in circumstances indicates that the carrying amount of the assets may not be recoverable. Any long-lived assets held for disposal are reported at the lower of their carrying amounts or fair value less cost to sell. Management has determined there to be no impairment.

#### **Patent Costs, net**

Internal patent costs are expensed in the period incurred. Patents purchased are capitalized and amortized over the remaining life of the patent.

Patents at December 31, 2016 were acquired as a result of the merger with Valley Pharmaceuticals, Inc. on November 19, 2002. The majority stockholders of Provectus also owned all of the shares of Valley and therefore the assets acquired from Valley were recorded at their carry-over basis. The patents are being amortized over the remaining lives of the patents, which range from 1-6 years. Annual amortization of the patents is expected to approximate \$671,000 in 2017, 2018 and 2019, and \$228,000 in 2020.

#### **Long-Term Related Party Receivables**

The Company carries long-term receivables from certain current and former employees in connection with the Kleba Shareholder Derivative Lawsuit (see Note 12). The long-term receivables are carried at their contractual amounts, less a reserve for any amounts deemed by management to be uncollectible. Management evaluates the collectability of the receivables at least quarterly. Management estimates the reserve for uncollectibility based on existing economic conditions, the financial conditions of the current and former employees, and the amount and age of past due receivables. Receivables are considered past due if full payment is not received by the contractual due date. Past due amounts are generally written off against the reserve for uncollectibility only after all collection attempts have been exhausted. See Note 5 – Long-Term Receivables.

## Research and Development

Research and development costs are charged to expense when incurred. An allocation of payroll expenses to research and development is made based on a percentage estimate of time spent. The research and development costs include the following: payroll, consulting and contract labor, lab supplies and pharmaceutical preparations, legal, insurance, rent and utilities, and depreciation and amortization.

## Income Taxes

The Company accounts for income taxes under the liability method in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) 740 “Income Taxes”. Under this method, deferred income tax assets and liabilities are determined based on differences between financial reporting and tax basis of assets and liabilities and are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse. A valuation allowance is established if it is more likely than not that all, or some portion, of deferred income tax assets will not be realized. The Company has recorded a full valuation allowance to reduce its net deferred income tax assets to zero. In the event the Company were to determine that it would be able to realize some or all its deferred income tax assets in the future, an adjustment to the deferred income tax asset would increase income in the period such determination was made.

The Company recognizes the effect of income tax positions only if those positions are more likely than not of being sustained upon an examination. Any recognized income tax positions would be measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement would be reflected in the period in which the change in judgment occurs. The Company would recognize any corresponding interest and penalties associated with its income tax positions in income tax expense. There were no income taxes, interest or penalties incurred in 2016, 2015 or 2014. Tax years going back to 2013 remain open for examination by the IRS.

## Basic and Diluted Loss Per Common Share

Basic loss per common share is computed by dividing net loss by the weighted average number of vested common shares outstanding during the period. Diluted earnings per share reflects the potential dilution that could occur if securities or other instruments to issue common stock were exercised or converted into common stock. The following securities are excluded from the calculation of weighted average dilutive common shares because their inclusion would have been anti-dilutive:

	December 31,		
	2016	2015	2014
Warrants	189,991,541	80,121,595	63,235,956
Options	3,500,000	10,630,000	10,845,098
Convertible preferred stock	5,647,009	—	—
Total potentially dilutive shares	<u>199,138,551</u>	<u>90,751,595</u>	<u>74,081,054</u>

## Derivative Instruments

The Company evaluates its convertible instruments to determine if those contracts or embedded components of those contracts qualify as derivative financial instruments to be separately accounted for in accordance with FASB ASC Topic 815. The accounting treatment of derivative financial instruments requires that the Company record warrants and conversion options at their fair values as of the inception date of the agreement and at fair value as of each subsequent balance sheet date. Any change in fair value is recorded as non-operating, non-cash income or expense for each reporting period at each balance sheet date. The Company reassesses the classification of its derivative instruments at each balance sheet date. If the classification changes as a result of events during the period, the contract is reclassified as of the date of the event that caused the reclassification. Warrants and conversion options are recorded as a discount to the host instrument.

The Monte-Carlo Simulation model was used to estimate the fair value of the warrants that were classified as derivative liabilities. The model includes subjective input assumptions that can materially affect the fair value estimates. The expected volatility is estimated based on the most recent historical period of time equal to the weighted average life of the warrants.

### Fair Value of Financial Instruments

The Company measures the fair value of financial assets and liabilities based on the guidance of ASC 820 “Fair Value Measurements and Disclosures” (“ASC 820”) which defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. The Company determines the estimated fair value of amounts presented in these consolidated financial statements using available market information and appropriate methodologies. However, considerable judgment is required in interpreting market data to develop the estimates of fair value. The estimates presented in the financial statements are not necessarily indicative of the amounts that could be realized in a current exchange between buyer and seller. The use of different market assumptions and/or estimation methodologies may have a material effect on the estimated fair value amounts. These fair value estimates were based upon pertinent information available as of December 31, 2016 and 2015. The carrying amounts of the Company’s financial assets and liabilities, such as cash and cash equivalents, short-term settlement receivable, other current assets and accrued expenses approximate fair values due to the short-term nature of these instruments.

ASC 820 defines fair value as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. ASC 820 also establishes a fair value hierarchy, which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. ASC 820 describes three levels of inputs that may be used to measure fair value:

- Level 1 — Inputs use quoted prices in active markets for identical assets or liabilities that the Company has the ability to access.
- Level 2 — Inputs use directly or indirectly observable inputs. These inputs include quoted prices for similar assets and liabilities in active markets as well as other inputs such as interest rates and yield curves that are observable at commonly quoted intervals.
- Level 3 — Inputs are unobservable inputs, including inputs that are available in situations where there is little, if any, market activity for the related asset or liability.

In instances where inputs used to measure fair value fall into different levels in the above fair value hierarchy, fair value measurements in their entirety are categorized based on the lowest level input that is significant to the valuation. The Company’s assessment of the significance of particular inputs to these fair measurements requires judgment and considers factors specific to each asset or liability.

Both observable and unobservable inputs may be used to determine the fair value of positions that are classified within the Level 3 category. As a result, the unrealized gains and losses for assets within the Level 3 category may include changes in fair value that were attributable to both observable (e.g., changes in market interest rates) and unobservable (e.g., changes in historical company data) inputs. Financial assets are considered Level 3 when their fair values are determined using pricing models, discounted cash flow methodologies or similar techniques and at least one significant model assumption or input is unobservable.

See Note 11 - Fair Value of Financial Instruments.

### Stock-Based Compensation

The Company measures the cost of services received in exchange for an award of equity instruments based on the fair value of the award. For employees, the fair value of the award is measured on the grant date and for non-employees, the fair value of the award is measured on the measurement date and re-measured on vesting dates and interim financial reporting dates until the service period is complete. The fair value amount is then recognized over the period during which services are required to be provided in exchange for the award, usually the vesting period. The Company computes the fair value of equity-classified warrants and options granted using the Black-Scholes option pricing model. Option valuation models require the input of highly subjective assumptions including the expected volatility factor of the market price of the Company’s common stock which is determined by reviewing its historical public market closing prices.

## Reclassifications

Certain prior period amounts have been reclassified for comparative purposes to conform to the fiscal 2016 presentation. These reclassifications have no impact on the previously reported net loss.

## Recent Accounting Pronouncements

In May 2014, the FASB issued Accounting Standards Update (“ASU”) No. 2014-09, “Revenue from Contracts with Customers” (“ASU 2014-09”), which supersedes nearly all existing revenue recognition guidance under U.S. GAAP. The core principle of ASU 2014-09 is to recognize revenues when promised goods or services are transferred to customers in an amount that reflects the consideration to which an entity expects to be entitled for those goods or services. ASU 2014-09 defines a five-step process to achieve this core principle and, in doing so, more judgment and estimates may be required within the revenue recognition process than are required under existing U.S. GAAP. The standard is effective for annual periods beginning after December 15, 2017, and interim periods therein, using either of the following transition methods: (i) a full retrospective approach reflecting the application of the standard in each prior reporting period with the option to elect certain practical expedients, or (ii) a retrospective approach with the cumulative effect of initially adopting ASU 2014-09 recognized at the date of adoption (which includes additional footnote disclosures). The Company is currently evaluating the impact of its pending adoption of ASU 2014-09 on its consolidated financial statements and have not yet determined the method by which it will adopt the standard in 2018. The Company currently does not have revenues but will consider any related impact going forward.

In June 2014, the FASB issued ASU No. 2014-12, “Accounting for Share-Based Payments When the Terms of an Award Provide That a Performance Target Could Be Achieved after the Requisite Service Period” (“ASU 2014-12”). ASU 2014-12 requires that a performance target that affects vesting, and that could be achieved after the requisite service period, be treated as a performance condition. As such, the performance target should not be reflected in estimating the grant date fair value of the award. This update further clarifies that compensation cost should be recognized in the period in which it becomes probable that the performance target will be achieved and should represent the compensation cost attributable to the period(s) for which the requisite service has already been rendered. The amendments in this ASU are effective for annual periods and interim periods within those annual periods beginning after December 15, 2015. The adoption of this ASU did not have a material impact on the Company’s consolidated financial statements.

In August 2014, the FASB issued ASU No. 2014-15, “Presentation of Financial Statements – Going Concern (Subtopic 205-40): Disclosure of Uncertainties about an Entity’s Ability to Continue as a Going Concern” (“ASU 2014-15”). ASU 2014-15 explicitly requires management to evaluate, at each annual or interim reporting period, whether there are conditions or events that exist which raise substantial doubt about an entity’s ability to continue as a going concern and to provide related disclosures. ASU 2014-15 is effective for annual periods ending after December 15, 2016, and annual and interim periods thereafter, with early adoption permitted. The Company adopted this ASU during the year ended December 31, 2016.

In November 2014, the FASB issued ASU No. 2014-16, “(Topic 815) Derivatives and Hedging” (“ASU 2014-16”), which provides clarification on how current guidance should be interpreted in evaluating the economic characteristics and risks of a host contract in a hybrid financial instrument that is issued in the form of a share. Specifically, the amendments clarify that an entity should consider all relevant terms and features in evaluating the host contract and that no single term or feature would necessarily determine the economic characteristics and risks of the host contract. ASU 2014-16 is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2015. The amendment should be applied on a modified retrospective basis to existing hybrid financial instruments issued in the form of a share as of the beginning of the year for which the amendments are effective. The adoption of this ASU did not have a material impact on the Company’s consolidated financial statements.

In May 2015, the FASB issued ASU 2015-07, “Fair Value Measurement (Topic 820): Disclosures for Investments in Certain Entities That Calculate Net Asset Value per Share (or Its Equivalent)” (“ASU 2015-07”). ASU 2015-07 removes the requirement to categorize within the fair value hierarchy all investments for which fair value is measured using the net asset value per share practical expedient. The standard is effective for financial statements issued for interim and annual reporting periods beginning after December 15, 2015, and requires retrospective presentation. The adoption of this ASU did not have a material impact on the Company’s consolidated financial statements.

In February 2016, the FASB issued ASU No. 2016-02, “Leases” (“ASU 2016-02”), which amends the existing accounting standards for lease accounting, including requiring lessees to recognize most leases on their balance sheets and making targeted changes to lessor accounting. ASU 2016-02 will be effective beginning in the first quarter of 2019. Early adoption of ASU 2016-02 is permitted.

The new standard requires a modified retrospective transition approach for all leases existing at, or entered into after, the date of initial application, with an option to use certain transition relief. The Company is currently evaluating the impact of adopting ASU 2016-02 on its consolidated financial statements.

In March 2016, the FASB issued ASU No. 2016-03, “Derivatives and Hedging (Topic 815): Contingent Put and Call Options in Debt Instruments,” which clarifies the requirements for assessing whether contingent call or put options that can accelerate the repayment of principal on debt instruments are clearly and closely related to their debt hosts. This guidance will be effective for annual reporting periods beginning after December 15, 2016, including interim periods within those annual reporting periods, and early adoption is permitted. The Company is currently evaluating the provisions of this guidance and assessing its impact on its consolidated financial statements and disclosures.

In March 2016, the FASB issued ASU No. 2016-06, “Derivatives and Hedging (Topic 815)”. The amendments apply to all entities that are issuers of, or investors in, debt instruments (or hybrid financial instruments in this Update that are determined to have a debt host) with embedded call (put) options. The amendments in this ASU clarify the requirements for assessing whether contingent call (put) options that can accelerate the payment of principal on debt instruments are clearly and closely related to their debt host. An entity performing the assessment under the amendments in this ASU is required to assess the embedded call (put) options solely in accordance with the four-step decision sequence. For public business entities, the amendments in this ASU are effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years. Early adoption is permitted, including adoption in an interim period. This ASU is not expected to have a material impact on the Company’s consolidated financial statements.

In March 2016, the FASB issued ASU No. 2016-08, “Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations (Reporting Revenue Gross versus Net).” This ASU amends the principal versus agent guidance in ASU 2014-09. Further, in April 2016, the FASB issued ASU No. 2016-10, Revenue from Contracts with Customers (Topic 606): Identifying Performance Obligations and Licensing. This ASU also amends ASU 2014-09 and is related to the identification of performance obligations and accounting for licenses. The effective date and transition requirements for both of these amendments to ASU 2014-09 are the same as those of ASU 2014-09, which was deferred for one year by ASU No. 2015-14, Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date. That is, the guidance under these standards is to be applied using a full retrospective method or a modified retrospective method, as outlined in the guidance, and is effective for annual periods, and interim periods within those annual periods, beginning after December 15, 2017. Early adoption is permitted only for annual periods, and interim period within those annual periods, beginning after December 15, 2016. The Company is currently evaluating the provisions of each of these standards and assessing their impact on its consolidated financial statements and disclosures.

In March 2016, the FASB issued ASU No. 2016-09, “Compensation-Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting.” This ASU makes targeted amendments to the accounting for employee share-based payments. This guidance is to be applied using various transition methods such as full retrospective, modified retrospective, and prospective based on the criteria for the specific amendments as outlined in the guidance. The guidance is effective for annual periods, and interim periods within those annual periods, beginning after December 15, 2016. Early adoption is permitted, as long as all of the amendments are adopted in the same period. The Company is currently evaluating the provisions of this guidance and assessing its impact on its consolidated financial statements and disclosures.

In September 2016, the FASB issued ASU No. 2016-15, “Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments,” which clarifies whether the following items should be categorized as operating, investing or financing in the statement of cash flows: (i) debt prepayments and extinguishment costs, (ii) settlement of zero-coupon debt, (iii) settlement of contingent consideration, (iv) insurance proceeds, (v) settlement of corporate-owned life insurance (COLI) and bank-owned life insurance (BOLI) policies, (vi) distributions from equity method investees, (vii) beneficial interests in securitization transactions, and (viii) receipts and payments with aspects of more than one class of cash flows. The new standard takes effect in 2018 for public companies. If an entity elects early adoption, it must adopt all of the amendments in the same period. The Company is currently evaluating the provisions of this guidance and assessing its impact on its consolidated financial statements and disclosures.

In October 2016, the FASB issued ASU No. 2016-17, “Consolidation (Topic 810) – Interests Held through Related Parties That Are under Common Control” (“ASU 2016-17”). ASU 2016-17 requires, when assessing which party is the primary beneficiary in a VIE, that the decision maker considers interests held by entities under common control on a proportionate basis instead of treating those interests as if they were that of the decision maker itself, as current GAAP requires. The ASU is effective for annual periods, and interim periods therein, beginning after December 15, 2016. Early application is permitted in any interim or annual period. The Company is currently evaluating the provisions of this guidance and assessing its impact on its consolidated financial statements and disclosures.

In November 2016, the FASB issued ASU No. 2016-18, “Statement of Cash Flows (Topic 230) - Restricted Cash” (“ASU 2016-18”). ASU 2016-18 requires that restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The ASU is effective beginning after December 15, 2017, and interim periods within those fiscal years. Early adoption is permitted. The ASU should be applied using a retrospective transition method to each period presented. The Company is currently evaluating the provisions of this guidance and assessing its impact on its consolidated financial statements and disclosures.

#### **4. Related Party Transactions**

##### *Dr. Dees Travel Expenses and Related Collection Efforts*

As reported in the Company’s press release furnished with the Company’s Current Report on Form 8-K filed with the Commission on February 29, 2016, in connection with the resignation of Dr. Dees as the Company’s Chief Executive Officer and Chairman of the Board of Directors, which was effective February 27, 2016, the Audit Committee conducted a review of Company procedures, policies and practices, including travel expense advancements and reimbursements. The Audit Committee retained independent counsel and an advisory firm with forensic accounting expertise to assist the Audit Committee in conducting the investigation. On March 15, 2016, the Audit Committee completed this investigation and made the following findings: (1) in 2015, Dr. Dees received \$898,430 in travel expense advances but submitted receipts totaling only \$297,170, most of which did not appear to be authentic; (2) in 2014, Dr. Dees received \$819,000 for travel expense advances, for which no receipts were submitted; and (3) in 2013, Dr. Dees received \$752,034 for travel expense advances; no receipts were submitted by Dr. Dees for \$698,000 of these expenses and \$54,034 of submitted receipts did not appear to be authentic. In addition, the Company advanced travel expenses to Dr. Dees in the amount of \$56,627 in the first quarter of 2016 prior to his resignation and prior to the Company’s investigation.

On May 5, 2016, the Company filed a lawsuit in the United States District Court for the Eastern District of Tennessee at Knoxville against Dr. Dees and his wife (together with Dr. Dees, the “Defendants”). The Company alleges that between 2013 and the present, Dr. Dees received approximately \$2.4 million in advanced or reimbursed travel and entertainment expenses from the Company and that Dr. Dees did not use these funds for legitimate travel and entertainment expenses as he requested and the Company intended. Instead, the Company alleges that Dr. Dees created false receipts and documentation for the expenses and applied the funds to personal use. The Company and Dr. Dees are parties to a Stipulated Settlement Agreement dated June 6, 2014 (the “Kleba Settlement Agreement”) that was negotiated to resolve certain claims asserted against Dr. Dees derivatively. Pursuant to the terms of the Kleba Settlement Agreement, Dr. Dees agreed to repay the Company compensation that was paid to him along with legal fees and other expenses incurred by the Company. As of the date of his resignation, Dr. Dees still owed the Company \$2,267,750 under the Kleba Settlement Agreement. See Note 5 – Long-Term Receivables. Dr. Dees has failed to make such payment, and the Company has notified him that he is in default and demanded payment in full. Therefore, the Company is alleging counts of conversion, fraud, breach of fiduciary duty, breach of contract, breach of Kleba Settlement Agreement, unjust enrichment and punitive damages in this lawsuit. The Company is seeking that the Defendants be prohibited from disposing of any property that may have been paid for with the misappropriated funds, the Defendants be disgorged of any funds shown to be fraudulently misappropriated and that the Company be awarded compensatory damages in an amount not less than \$5 million. Furthermore, the Company is seeking for the damages to be joint and several as to the Defendants and that punitive damages be awarded against Dr. Dees in the Company’s favor. The Company is also seeking foreclosure of the Company’s first-priority security interest in the 1,000,000 shares of common stock granted by Dr. Dees to the Company as collateral pursuant to that certain Stock Pledge Agreement dated October 3, 2014, between Dr. Dees and the Company in order to secure Dr. Dees’ obligations under the Kleba Settlement Agreement. The United States District Court for the Eastern District of Tennessee at Knoxville entered a default judgment against Dr. Dees on July 20, 2016; however, the Company cannot predict when these shares will be recovered by the Company. The Court issued a Temporary Restraining Order upon the Company’s application for same upon notice that Dr. Dees was attempting to sell his shares of the Company’s common stock. The Temporary Restraining Order was converted to a Preliminary Injunction on September 16, 2016, which order will remain in place until the resolution of the underlying lawsuit absent further court order or agreement of the parties, and the Company is presently engaged in discovery regarding damages.



Under the terms of the Amended and Restated Executive Employment Agreement entered into by Dr. H. Craig Dees, the Company's former Chairman and Chief Executive Officer and the Company on April 28, 2014 (the "Dees Agreement"), Dr. Dees is owed no severance payments as a result of his resignation on February 27, 2016. Dr. Dees's employment terminated with his resignation without "Good Reason" as that term is defined in the Dees Agreement. Under section 6 of the Dees Agreement, "Effect of Termination," a resignation by Dr. Dees without "Good Reason" terminates any payments due to Dr. Dees as of the last day of his employment.

#### *Mr. Culpepper Travel Expenses and Related Collection Efforts*

On December 27, 2016, the Company's Board of Directors unanimously voted to terminate Peter R. Culpepper, effective immediately, from all positions he held with the Company and each of its subsidiaries, including Interim Chief Executive Officer and Chief Operating Officer of the Company, for cause, in accordance with the terms of the Amended and Restated Executive Employment Agreement entered into by Peter R. Culpepper and the Company on April 28, 2014 (the "Culpepper Employment Agreement") based on the results of the investigation conducted by a Special Committee of the Board of Directors regarding improper travel expense advancements and reimbursements to Mr. Culpepper.

The Special Committee retained independent counsel and an advisory firm with forensic accounting expertise to assist the Special Committee in conducting the investigation. The Special Committee found that Mr. Culpepper received \$294,255 in travel expense reimbursements and advances that were unsubstantiated. The Company seeks to recover from Mr. Culpepper the entire \$294,255 in unsubstantiated travel expense reimbursements and advances, as well as all attorney's fees and auditors'/experts' fees incurred by the Company in connection with the examination of his travel expense reimbursements. The Company is in the process of determining whether any or all of Mr. Culpepper's unsubstantiated travel expenses and advances should be treated as a theft loss and therefore whether any uncollectible amounts will be treated as income to Mr. Culpepper and whether a Form 1099 MISC will be issued by the Company to Mr. Culpepper in 2017 in that regard.

Under the terms of the Culpepper Employment Agreement, Mr. Culpepper is owed no severance payments as a result of his termination "For Cause" as that term is defined in the Culpepper Employment Agreement. Under section 6 of the Culpepper Employment Agreement, "Effect of Termination," a termination "For Cause" terminates any payments due to Mr. Culpepper as of the last day of his employment. Furthermore, Mr. Culpepper is no longer entitled to the 2:1 credit under the settlement agreement with respect to the Kleba Shareholder Derivative Lawsuit (see Note 12), such that the total \$2,240,000 owed by Mr. Culpepper pursuant to the settlement agreement plus Mr. Culpepper's proportionate share of the litigation cost in the amount of \$227,750 less the amount that he repaid as of December 31, 2016 is immediately due and payable. The Company sent Mr. Culpepper a notice of default in January 2017 for the total amount he owes the Company and intends to resolve these claims pursuant to the alternative dispute resolution provision of the Culpepper Employment Agreement. The Company has established a reserve of \$2,051,083 as of December 31, 2016, which amount represents the amount the Company currently believes Mr. Culpepper owes to the Company, while the Company pursues collection of this amount. See Note 5 – Long-Term Receivables.

Mr. Culpepper disputes that he was terminated "for cause" under the Culpepper Employment Agreement and Mr. Culpepper has demanded this issue be resolved by mediation in accordance with the Culpepper Employment Agreement. The Company is in the process of responding to Mr. Culpepper's demand, and the mediation has been scheduled for June 28, 2017. Concurrently, the Company is seeking from Mr. Culpepper immediate payment of amounts due under the Kleba Settlement Agreement as noted above.

#### *Other Related Party Transactions*

During the year ended December 31, 2016, the Company made a donation of \$100,000 to a charitable foundation in connection with the foundation's annual dinner, for which the Company's Chairman of the Board serves as the director, secretary and dinner chairman for the foundation. As of December 31, 2016, the \$100,000 is included within accounts payable on the consolidated balance sheet.

Director fees during the years ended December 31, 2016, 2015 and 2014 were \$335,000, \$270,000 and \$270,000, respectively.

## 5. Long-Term Receivables

The following table summarizes the long-term receivables at December 31, 2016 and 2015:

	December 31, 2016		
	Legal Fees	Settlement	Total
Gross receivable	\$ 911,000	\$ 2,864,753	\$ 3,775,753
Reserve for uncollectibility	(455,500)	(1,549,043)	(2,004,543)
Net receivable	455,500	1,315,710	1,771,210
Short-term receivable	—	300,000	300,000
Long-term receivable	<u>\$ 455,500</u>	<u>\$ 1,015,710</u>	<u>\$ 1,471,210</u>

	December 31, 2015		
	Legal Fees	Settlement	Total
Gross receivable	\$ 911,000	\$ 3,382,313	\$ 4,293,313
Reserve for uncollectibility	(227,750)	(870,578)	(1,098,328)
Net receivable	683,250	2,511,735	3,194,985
Short-term receivable	—	500,000	500,000
Long-term receivable	<u>\$ 683,250</u>	<u>\$ 2,011,735</u>	<u>\$ 2,694,985</u>

During the years ended December 31, 2016, 2015, and 2014, the Company recorded a reserve for uncollectibility of settlement receivable of \$678,465, \$870,578 and \$0, respectively, in its consolidated statements of operations. During the years ended December 31, 2016, 2015, and 2014, the Company recorded a reserve for uncollectibility of legal fees receivable of \$227,750, \$227,750 and \$0, respectively, in its consolidated statements of operations.

See Note 4 - Related Party Transactions and Note 12 – Litigation for additional details associated with the Company’s receivables.

## 6. Stockholders' Equity

### Authorized Capital

As of December 31, 2016, the Company was authorized to issue 1,000,000,000 shares of common stock, \$0.001 par value, and 25,000,000 shares of preferred stock, \$0.001 par value. The holders of the Company’s common stock are entitled to one vote per share. The preferred stock is designated as follows: 240,000 shares to Series B Convertible Preferred Stock and 24,760,000 shares undesignated.

### Series A Convertible Preferred Stock

In January 2014, 33,334 shares of the Company’s Series A 8% Convertible Preferred Stock were converted into 33,334 shares of the Company’s common stock. There were no shares of Series A 8% Convertible Preferred Stock outstanding at December 31, 2016 and 2015. On April 30, 2014, the Company filed a Certificate of Elimination with the Secretary of State of the State of Delaware to cancel the Series A 8% Convertible Preferred Stock.

### Series B Convertible Preferred Stock

On August 25, 2016, the Company filed the Series B Certificate of Designation with the Delaware Secretary of State. The Series B Certificate of Designation provides for the issuance of the Series B Convertible Preferred Stock, par value \$0.001 per share (the “Series B Preferred Stock”). In the event of the Company’s liquidation, dissolution, or winding up, holders of Series B Preferred Stock will be entitled to receive the amount of cash, securities or other property to which such holder would be entitled to receive with respect to such shares of Series B Preferred Stock if such shares had been converted to common stock immediately prior to such event (without giving effect for such purposes to any beneficial ownership limitation), subject to the preferential rights of holders of any class or series of the Company’s capital stock specifically ranking by its terms senior to the Series B Preferred Stock as to distributions of assets upon such event, whether voluntarily or involuntarily. The Series B Preferred Stock has no voting rights.

The holders of Series B Preferred Stock will be entitled to receive cumulative dividends at the rate per share of 8% per annum of the stated value per share, until the fifth anniversary of the date of issuance of the Series B Preferred Stock. The dividends become payable, at the Company's option in either cash or in shares of common stock, (i) upon any conversion of the Series B Preferred Stock, (ii) on each such other date as the Board may determine, subject to written consent of the holders of Series B Preferred Stock holding a majority of the then issued and outstanding Series B Preferred Stock, (iii) upon the Company's liquidation, dissolution or winding up, and (iv) upon occurrence of a fundamental transaction, which includes any merger or consolidation, sale of all or substantially all of the Company's assets, exchange or conversion of all of the common stock by tender offer, exchange offer or reclassification; provided, however, that if Series B Preferred Stock is converted into shares of common stock at any time prior to the fifth anniversary of the date of issuance of the Series B Preferred Stock, the holder will receive a make-whole payment in an amount equal to all of the dividends that, but for the early conversion, would have otherwise accrued on the applicable shares of Series B Preferred Stock being converted for the period commencing on the conversion date and ending on the fifth anniversary of the date of issuance, less the amount of all prior dividends paid on such converted Series B Preferred Stock before the date of conversion. Make-whole payments are payable at the Company's option in either cash or in shares of common stock. With respect to any dividend payments and make-whole payments paid in shares of common stock, the number of shares of common stock to be issued to a holder of Series B Preferred Stock will be an amount equal to the quotient of (i) the amount of the dividend payable to such holder divided by (ii) the conversion price then in effect.

#### Warrant Exchange Programs

As of December 31, 2015, the Company had outstanding warrants to purchase an aggregate of 59,861,601 shares of common stock, which were issued between January 6, 2011 and November 1, 2015 in transactions exempt from registration under the Securities Act (the "Existing Warrants"). Each Existing Warrant had an exercise price of between \$1.00 and \$3.00 per share, and expires between January 6, 2016 and November 1, 2020. On December 31, 2015, the Company offered pursuant to an Offer Letter/Prospectus 59,861,601 shares of its common stock for issuance upon exercise of the Existing Warrants. The shares issued upon exercise of the Existing Warrants are unrestricted and freely transferable. The Offer was to temporarily modify the terms of the Existing Warrants so that each holder who tendered Existing Warrants during the Offer Period for early exercise were able to do so at a discounted exercise price of \$0.50 per share. Each Existing Warrant holder who tendered existing Warrants for early exercise during the Offer Period received, in addition to the shares of Common Stock purchased upon exercise, an equal number of new warrants to purchase common stock, with an exercise price of \$0.85 per share, expiring June 19, 2020 (the "Replacement Warrants"). The modification of the exercise price of the Existing Warrants and the Replacement Warrants are treated as an inducement to enter into the exchange offer and were accounted for as of the closing date. The exchange offer expired at 4:00 p.m., Eastern Time, on March 28, 2016. The Company accepted for purchase approximately 7,798,507 Existing Warrants properly tendered, resulting in the issuance of approximately 7,798,507 shares of common stock upon exercise of Existing Warrants and the issuance of approximately 7,798,507 Replacement Warrants, resulting in gross proceeds of \$3,899,254 upon closing of the exchange offer. The placement agents received a total of \$264,214 in placement agent fees and 467,910 warrants with a cash exercise price of \$0.85 per share which expire on June 19, 2020, unless sooner exercised. In connection with the exchange offer, a warrant incentive expense totaling \$2,718,407 was recorded during the year ended December 31, 2016. The value was determined using the Black-Scholes option-pricing model between the Existing Warrants exchanged and the common stock and Replacement Warrants received. See Note 11.

#### Common Stock Issued for Services

During the years ended December 31, 2016, 2015 and 2014, the Company issued 51,745 shares, 305,627 shares and 300,000 shares of common stock to consultants in exchange for services, respectively. Consulting costs charged to operation during the years ended December 31, 2016, 2015 and 2014 were \$20,163, \$202,814 and \$418,250, respectively. As the fair market of these services was not readily determinable, these services were valued based on the fair market value of stock at grant date.

#### Warrants Issued for Services

During the year ended December 31, 2014, the Company issued 2,444,913 fully vested warrants to consultants in exchange for services. Consulting costs charged to operations were \$2,321,327. As the fair market value of these services was not readily determinable, these services were valued based on the fair market value of the warrants, determined using the Black-Scholes option-pricing model. The fair market value for the warrants issued in 2014 ranged from \$0.55 to \$2.56 per share. See Note 7—Stock Incentive Plan and Warrants for valuation assumptions.

During the year ended December 31, 2015, the Company issued 1,948,702 fully vested warrants to consultants in exchange for services. Consulting costs charged to operations were \$552,358. As the fair market value of these services was not readily determinable, these services were valued based on the fair market value of the warrants, determined using the Black-Scholes option-pricing model. The fair market value for the warrants issued in 2015 ranged from \$0.14 to \$0.54 per share. See Note 7—Stock Incentive Plan and Warrants for valuation assumptions.

There are no provisions or obligations that would require the Company to cash settle any of its outstanding warrants. The equity classification of certain of the Company's warrants is appropriate considering that these warrants provide the counterparties the right to purchase a fixed number of shares at a fixed price and the terms are not subject to any potential adjustments.

#### Private Offerings of Common Stock and Warrants

During the year ended December 31, 2014, the Company completed a private offering of common stock and warrants to accredited investors for gross proceeds of \$5,000,000. The Company accepted subscriptions, in the aggregate, for 2,000,000 shares of common stock and five year warrants to purchase 2,000,000 shares of common stock. Investors received five year fully vested warrants to purchase up to 100% of the number of shares purchased by the investors in the offering. The warrants have an exercise price of \$3.00 per share. The purchase price for each share of common stock together with the warrants was \$2.50. In connection with the offering, the Company paid \$650,000 and issued five year fully vested warrants to purchase 300,000 shares of common stock with an exercise price of \$2.50 per share to the placement agent.

During the year ended December 31, 2014, the Company received subscriptions, in the aggregate, for 3,586,300 shares of common stock and five year warrants to purchase 1,793,150 shares of common stock for aggregate gross proceeds of \$3,586,300. Investors received five year fully vested warrants to purchase up to 50% of the number of shares purchased in the offering. The warrants have an exercise price of \$1.25 per share. The purchase price for each share of common stock together with the warrants is \$1.00. In connection with the offering, the Company paid \$466,219 and issued five year fully vested warrants to purchase 358,630 shares of common stock with an exercise price of \$1.25 per share to the placement agent.

During the year ended December 31, 2014 the Company completed a private offering of common stock and warrants to accredited investors for gross proceeds of \$4,198,300. The Company accepted subscriptions, in the aggregate, for 4,198,300 shares of common stock and five year warrants to purchase 2,099,150 shares of common stock. Investors received five year fully vested warrants to purchase up to 50% of the number of shares purchased in the offering. The warrants have an exercise price of \$1.25 per share. The purchase price for each share of common stock together with the warrants was \$1.00. In connection with the offering, the Company paid \$545,779 and issued five year fully vested warrants to purchase 419,830 shares of common stock with an exercise price of \$1.25 per share to the placement agent.

During the year ended December 31, 2015, the Company completed a private offering of common stock and warrants to accredited investors for gross proceeds of \$776,000. The Company received subscriptions, in the aggregate, for 776,000 shares of common stock and five year warrants to purchase 388,000 shares of common stock. Investors received five year fully vested warrants to purchase up to 50% of the number of shares purchased in the offering. The warrants have an exercise price of \$1.25 per share. The purchase price for each share of common stock together with the warrants is \$1.00. In connection with the offering, the Company paid \$100,880 and issued five year fully vested warrants to purchase 77,600 shares of common stock with an exercise price of \$1.25 per share to the placement agent.

During the year ended December 31, 2015, the Company completed a private offering of common stock and warrants to accredited investors for gross proceeds of \$1,011,100. The Company received subscriptions, in the aggregate, for 1,011,100 shares of common stock and five year warrants to purchase 505,550 shares of common stock. Investors received five year fully vested warrants to purchase up to 50% of the number of shares purchased in the offering. The warrants have an exercise price of \$1.25 per share. The purchase price for each share of common stock together with the warrants is \$1.00. In connection with the offering, the Company paid \$131,443 and issued five year fully vested warrants to purchase 101,110 shares of common stock with an exercise price of \$1.25 per share to the placement agent.

During the year ended December 31, 2016, the Company did not complete any private offerings of its equity securities.

#### June 2015 Public Offering of Common Stock and Warrants

On June 24, 2015, the Company completed a public offering of common stock and warrants for gross proceeds of \$13,151,250 (the "Offering"). The Offering consisted of 17,500,000 shares of common stock and warrants to purchase 17,500,000 shares of common stock with a public offering price of \$0.75 for a fixed combination of one share of common stock and a warrant to purchase one share of common stock. Investors received five year fully vested warrants to purchase up to 100% of the number of shares purchased in the Offering. The warrants have an exercise price of \$0.85 per share. The warrants met the criteria for equity treatment. At the closing, the underwriters exercised their over-allotment option with respect to warrants to purchase up to an additional 2,625,000 shares of common stock at \$0.01 per warrant. The warrants issued in the Offering began trading on the NYSE MKT on June 22, 2015, under the ticker symbol "PVCTWS." In connection with the Offering, the Company paid \$1,052,100 to the placement agent. As of December 31, 2016, 0 tradable warrants are outstanding.

#### August 2016 Public Offering

On August 30, 2016, the Company closed a public offering (the "August 2016 Offering") of 240,000 shares of its Series B Preferred Stock (which were initially convertible into an aggregate of 24,000,000 shares of the Company's common stock) and warrants, which were initially exercisable to purchase an aggregate of 24,000,000 shares of common stock at an exercise price of \$0.275 per share of common stock (the "August 2016 Warrants"). The Series B Preferred Stock and August 2016 Warrants were sold together at a price of \$25.00 for a combination of one share of Series B Preferred Stock and 100 August 2016 Warrants to purchase one share of common stock each, resulting in aggregate net proceeds of \$5,288,530 (gross proceeds of \$6,000,000 less issuance costs of \$711,470) to the Company.

The conversion feature embedded within the Series B Preferred Stock was subject to anti-dilution price protection such that if the conversion price in effect on the 60th trading day following the date of issuance of the Series B Preferred Stock (the "Price Reset Date") exceeded 85% of the average of the 45 lowest volume weighted average trading prices of the common stock during the period commencing on the date of issuance of the Series B Preferred Stock and ending on the Price Reset Date (as adjusted for stock splits, stock dividends, recapitalizations, reorganizations, reclassification, combinations, reverse stock splits or other similar events during such period) (the "Adjusted Conversion Price"), then the conversion price shall be reset to the Adjusted Conversion Price and shall be further subject to adjustment as provided in the Series B Certificate of Designation. In either case, if a holder of Series B Preferred Stock converted its shares of Series B Preferred Stock prior to any such price reset event, then such holder was entitled to receive additional shares of common stock equal to the number of shares of common stock that would have been issued assuming for such purposes the Adjusted Conversion Price were in effect at such time less the shares issued at the then Conversion Price (subject to being held in abeyance based on beneficial ownership limitations). On the Price Reset Date, the Adjusted Conversion Price was set at \$0.0533 pursuant to the terms of the Series B Certificate of Designation. During the year ended December 31, 2016, the Company issued to holders who converted their shares of Series B Preferred Stock an aggregate of 151,943,945 shares of common stock, which included dividends paid in kind which is discussed below.

The August 2016 Warrants expire on August 30, 2021. Pursuant to the terms of the August 2016 Warrants, because the exercise price in effect on the Price Reset Date exceeded 85% of the average of the 45 lowest volume weighted average trading prices of the common stock during the period commencing on the date of issuance of the August 2016 Warrants and ending on the Price Reset Date (as adjusted for stock splits, stock dividends, recapitalizations, reorganizations, reclassification, combinations, reverse stock splits or other similar events during such period) (the "Adjusted Exercise Price"), then (i) the exercise price was reset to the Adjusted Exercise Price (and without giving effect to any prior conversions) and shall be further subject to adjustment as provided in the August 2016 Warrants, and (ii) the number of shares of common stock issuable upon exercise of the August 2016 Warrants will be reset to equal the number of shares of common stock issuable upon conversion of Series B Preferred Stock after giving effect to the Adjusted Exercise Price. If a holder of August 2016 Warrants exercised its August 2016 Warrants prior to such repricing, then such holder was entitled to receive shares of common stock equal to the difference between the exercise price and the Adjusted Exercise Price. The exercise price of the August 2016 Warrants is further subject to appropriate adjustment in the event of certain stock dividends and distributions, stock splits, stock combinations, reclassifications or similar events affecting the common stock. On the Price Reset Date, the Adjusted Exercise Price was set at \$0.0533 pursuant to the terms of the August 2016 Warrants. No holder of August 2016 Warrants had exercised its August 2016 Warrants prior to the Price Reset Date, so no additional shares of common stock were due to holders of August 2016 Warrants as of the Price Reset Date. Holders of August 2016 Warrants are entitled to exercise their August 2016 Warrants at the Adjusted Exercise Price and will receive an aggregate of 112,570,356 shares of common stock upon exercise of the August 2016 Warrants.

The Series B Preferred Stock does not contain a redemption provision and an overall analysis of its features performed by the Company determined that it is more akin to equity and therefore, has been classified within stockholders' equity on the consolidated balance sheet. While the embedded conversion option ("ECO") is subject to an anti-dilution price adjustment, since the ECO is clearly and closely related to the equity host, it is not required to be bifurcated and accounted for as a derivative liability under ASC 815. To analyze whether the Series B Preferred Stock included a beneficial conversion feature ("BCF"), the Company allocated the \$6,000,000 of the gross proceeds between the August 2016 Warrants and the Series B Preferred Stock. The Company allocated the commitment date fair value of \$3,678,989 to the August 2016 Warrants (which is allocated at fair value because the August 2016 Warrants were determined to be derivative liabilities as discussed in Note 11) resulting in an amount allocated to the Series B Preferred Stock of \$2,321,011. Next, the Company computed the number of shares of common stock issuable at the commitment date to be 24,000,000 in order to arrive at an effective conversion price of \$0.097 per share. When compared to the market price of the Company's common stock of \$0.127 per share as of the commitment date, it was determined that a BCF did exist and, as a result, the Company recorded a deemed dividend in net loss available to common stockholders of \$726,989. On November 23, 2016, the Series B Preferred Stock conversion price became fixed and, as a result, the contingency was resolved. Accordingly, the Company analyzed for a BCF. The Company computed the number of shares of common stock issuable by the Company at the commitment date to be 112,570,356 to arrive at an effective conversion price of \$0.021 per share. When compared to the market price of the Company's common stock of \$0.038 per share as of the commitment date, it was determined that a BCF did exist and, as a result, the Company recognized a deemed dividend of \$1,318,801.

During the year ended December 31, 2016, holders converted 231,400 shares of Series B Preferred Stock such that they were entitled to dividends, including a make-whole payment, of \$2,314,000 that the Company elected to pay in shares of common stock. As a result, the Company issued 9,477,412 shares of common stock related to the Series B Preferred Stock dividends during the year ended December 31, 2016 and included the \$2,314,000 of dividends paid in kind in its computation of net loss applicable to common shareholders during the year ended December 31, 2016. The Company accounted for the dividends on the Series B Preferred Stock by recording a debit and credit to additional paid-in capital for \$2,314,000. In addition, the Company included \$72,453 as dividends paid in kind in its computation of net loss applicable to common shareholders during the year ended December 31, 2016 for the 8% dividends related to the shares of Series B Preferred Stock that were not converted as of December 31, 2016.

The net carrying value of the Series B Preferred Stock is \$2,045,789 (gross proceeds of \$6,000,000 less preferred stock discount associated with August 2016 Warrants of \$3,678,989 less issuance costs allocated to Series B Preferred Stock of \$275,222). Since the Series B Preferred Stock doesn't contain a redemption provision, it is not probable that the Series B Preferred Stock will become redeemable, therefore the preferred stock discount is not amortized.

The August 2016 Warrants were determined to be derivative liabilities at issuance due to the presence of an anti-dilution feature whereby the Company may not have a sufficient number of authorized and unissued shares, which resulted in the assumption of a cash settlement of the warrant. Utilizing a Monte Carlo valuation method, the Company, with the assistance of a valuation specialist, determined that the August 2016 Warrants had an issuance date value of \$3,678,989. The derivative liability was marked-to-the-market on November 23, 2016, when the exercise price became fixed, at which time the \$3,160,114 value of the August 2016 Warrants was reclassified to equity because the August 2016 Warrants were no longer subject to the anti-dilution adjustment. As a result, the Company recognized a gain on change in fair value of warrant liability of \$518,875 during the year ended December 31, 2016.

In connection with the closing of the August 2016 Offering, the Company incurred \$711,470 of cash issuance costs. \$436,248 of the issuance costs were allocated to the August 2016 Warrants (the August 2016 Warrants comprised \$3,678,989, or 61%, of the aggregate gross proceeds of \$6,000,000), which were classified at issuance as a derivative liability and, as a result, were expensed immediately (and included within other expense (non-operating) on the consolidated statement of operations) and \$275,222 of the issuance costs were allocated to the Series B Preferred Stock, which is classified as equity and, as a result, were charged against additional paid-in capital.

## ***7. Stock Incentive Plan and Warrants***

The Provectus Biopharmaceuticals, Inc. 2014 Equity Compensation Plan provides for the issuance of up to 20,000,000 shares of common stock pursuant to stock options for the benefit of eligible employees and directors of the Company. Options granted under the 2014 Equity Compensation Plan are either "incentive stock options" within the meaning of Section 422 of the Internal Revenue Code or options which are not incentive stock options. The stock options are exercisable over a period determined by the Board of Directors (through its Compensation Committee), but generally no longer than 10 years after the date they are granted. As of December 31, 2016, there were 18,900,000 shares available for issuance under the 2014 Equity Compensation Plan.

For stock options granted to employees during 2016, 2015 and 2014, the Company has estimated the fair value of each option granted using the Black-Scholes option pricing model with the following assumptions:

	<u>2016</u>	<u>2015</u>	<u>2014</u>
Weighted average fair value per option granted	N/A	\$ 0.38	\$ 0.77
Significant assumptions (weighted average) risk-free rate at grant date	N/A	0.25%	0.25%
Expected stock price volatility	N/A	90% - 92%	85% - 92%
Expected option life (years)	N/A	10	10

The Company has computed the fair value of options granted using the Black-Scholes option pricing model. Option forfeitures are estimated at the time of valuation and reduce expense ratably over the vesting period. This estimate will be adjusted periodically based on the extent to which actual option forfeitures differ, or are expected to differ, from the previous estimate, when it is material. The Company estimated forfeitures related to option grants at an annual rate of 0% for options granted during the years ended December 31, 2016, 2015 and 2014. The expected term used for options issued to non-employees is the contractual life and the expected term used for options issued to employees and directors is the estimated period of time that options granted are expected to be outstanding. The Company utilizes the “simplified” method to develop an estimate of the expected term of “plain vanilla” employee option grants. The Company is utilizing an expected volatility figure based on a review of the historical volatility, over a period of time, equivalent to the expected life of the instrument being valued, of the Company’s historical common stock market prices. The risk-free interest rate was determined from the implied yields from U.S. Treasury zero-coupon bonds with a remaining term consistent with the expected term of the instrument being valued.

During the year ended December 31, 2014, holders exercised an aggregate of 1,502,108 options at exercise prices ranging from \$0.64 to \$1.25 per share for aggregate proceeds of \$1,446,393. During the year ended December 31, 2014, the Company issued an aggregate of 150,000 stock options to its re-elected non-employee members of the board of directors. The stock options vested on the date of grant and have an exercise price equal to the fair market price on the date of issuance. Three employees of the Company had options rescinded during the three months ended December 31, 2014 due to the terms of the settlement discussed in Note 12.

During the year ended December 31, 2015, holders exercised an aggregate of 590,098 options at exercise prices ranging from \$0.64 to \$1.02 per share for aggregate proceeds of \$549,730. During the year ended December 31, 2015, the Company issued an aggregate of 150,000 stock options to its re-elected non-employee members of the board of directors and an aggregate of 1,600,000 stock options to its four executive officers then in office. All of the stock options issued in 2015 vested on the date of grant and have an exercise price equal to \$0.75 per share of common stock which is greater than the fair market price on the date of issuance.

During the year ended December 31, 2016, no holders exercised stock options. The Company did not issue any stock options during the year ended December 31, 2016. All of Dr. Dees’ stock options expired during the year ended December 31, 2016 as a result of his resignation.

Included in the results for the years ended December 31, 2016, 2015 and 2014 is \$0, \$670,576 and \$115,645, respectively, of stock-based compensation expense. As of December 31, 2016, there was no unrecognized compensation cost related to non-vested share-based compensation arrangements granted under the Plan.

The following table summarizes option activity during the years ended December 31, 2014, 2015 and 2016:

	Shares	Exercise Price Per Share	Weighted Average Exercise Price
Outstanding at January 1, 2014	15,322,206	\$0.62 - 1.50	\$ 0.97
Granted	150,000	0.88	0.88
Settlement (Note 11)	(2,800,000)	0.93 - 1.00	0.97
Exercised	(1,502,108)	0.64 - 1.25	0.96
Forfeited	(325,000)	0.95 - 1.10	1.09
Outstanding and exercisable at December 31, 2014	10,845,098	\$0.64 - 1.50	\$ 0.97
Granted	1,750,000	0.75	0.75
Exercised	(590,098)	0.64 - 1.02	0.93
Forfeited	(1,375,000)	0.62 - 0.94	0.77
Outstanding and exercisable at December 31, 2015	10,630,000	\$0.67 - 1.50	\$ 0.96
Granted	—	—	—
Exercised	—	—	—
Forfeited	(7,130,000)	0.67 - 1.50	0.97
Outstanding and exercisable at December 31, 2016	<u>3,500,000</u>	<u>\$0.67 - 1.50</u>	<u>\$ 0.93</u>

The following table summarizes information about stock options outstanding at December 31, 2016.

Exercise Price	Number Outstanding at December 31, 2016	Weighted Average Remaining Contractual Life	Number Exercisable at December 31, 2016
\$ 0.67	200,000	6.60	200,000
\$ 0.75	950,000	7.13	950,000
\$ 0.84	150,000	5.50	150,000
\$ 0.88	150,000	7.60	150,000
\$ 0.93	575,000	4.76	575,000
\$ 0.99	50,000	4.50	50,000
\$ 1.00	625,000	3.26	625,000
\$ 1.04	400,000	3.50	400,000
\$ 1.16	250,000	3.08	250,000
\$ 1.50	150,000	0.50	150,000
	<u>3,500,000</u>	4.95	<u>3,500,000</u>

The weighted-average grant-date fair value of options granted during 2015 and 2014 was \$0.38 per share and \$0.77 per share, respectively. The total intrinsic value of options exercised during 2015 and 2014 was \$16,151 and \$1,327,300, respectively. As of December 31, 2016, the intrinsic value of outstanding and exercisable options was \$0. No stock options were granted during the year ended December 31, 2016.

During the year ended December 31, 2014, 14,116,280 warrants were exercised on a cashless basis resulting in 10,016,291 common shares being issued. During the year ended December 31, 2014, 3,408,218 warrants were exercised for \$3,044,364 resulting in 3,408,218 common shares issued.



The following table summarizes warrant activity during the years ended December 31, 2014, 2015 and 2016:

	Warrants	Exercise Price Per Warrant	Weighted Average Exercise Price
Outstanding at January 1, 2014	73,037,416	\$0.68 - 2.00	\$ 1.03
Granted	9,415,673	1.00 - 3.00	1.61
Exercised	(17,524,498)	0.68 - 1.50	1.01
Forfeited	(1,692,635)	0.95 - 1.25	1.07
Outstanding and exercisable at December 31, 2014	63,235,956	\$0.68 - 3.00	\$ 1.12
Granted	23,145,962	0.85 - 1.25	0.88
Forfeited	(6,260,323)	0.95 - 1.50	1.10
Outstanding and exercisable at December 31, 2015	80,121,595	\$0.68 - 3.00	\$ 1.05
Granted	32,357,344	0.28 - 0.85	0.42
Warrant repricing	88,570,356	0.05	[1]
Exercised	(7,798,507)	0.50	0.50
Forfeited	(3,259,247)	0.68 - 2.00	1.27
Outstanding and exercisable at December 31, 2016	189,991,541	\$0.05 - 3.00	\$ 0.44

[1] On November 23, 2016, the exercise price of the August 2016 Warrants was reset to \$0.0533 per share and holders will receive an aggregate of 112,564,968 shares upon exercise. See Note 6 – Stockholders’ Equity – August 2016 Public Offering.

The following table summarizes information about warrants outstanding at December 31, 2016.

Exercise Price	Number Outstanding at December 31, 2016	Weighted Average Remaining Contractual Life	Number Exercisable at December 31, 2016
\$0.053	112,570,356	4.66	112,570,356
\$ 0.85	28,482,344	3.47	28,482,344
\$ 1.00	42,363,449	1.66	42,363,449
\$ 1.12	763,296	1.12	763,296
\$ 1.25	4,474,520	2.93	4,474,520
\$ 2.00	123,000	1.88	123,000
\$ 2.50	280,276	2.33	280,276
\$ 3.00	934,300	2.33	934,300
	189,991,541		189,991,541

## 8. Income Taxes

The income tax provision (benefit) consists of the following:

	For The Years Ended December 31,	
	2016	2015
Federal:		
Current	\$ —	\$ —
Deferred	(4,195,688)	(8,387,000)
State and local:		
Current	—	—
Deferred	(555,312)	(1,103,000)
	(4,751,000)	(9,490,000)
Change in valuation allowance	4,751,000	9,490,000
Income tax provision (benefit)	<u>\$ —</u>	<u>\$ —</u>

The reconciliations between the statutory federal income tax rate and the Company's effective tax rate is as follows:

	For The Years Ended December 31,	
	2016	2015
Tax benefit at federal statutory rate	(34.0)%	(34.0)%
State income taxes, net of federal benefit	(4.5)%	(4.5)%
Permanent differences	4.2%	(0.2)%
True-up of tax provision	14.9%	0.0%
Change in valuation allowance	19.4%	38.7%
Effective income tax rate	<u>0.0%</u>	<u>0.0%</u>

The components of the Company's deferred income taxes are summarized below:

	For The Years Ended December 31,	
	2016	2015
Deferred Tax Assets:		
Net operating loss carryforwards	\$ 52,999,000	\$ 42,457,000
Stock-based compensation	3,251,000	12,235,000
Research and development credits	2,163,000	—
Theft loss	963,000	963,000
Receivable allowance	772,000	—
Gross deferred tax assets	60,148,000	55,655,000
Deferred Tax Liabilities:		
Intangible assets	(863,000)	(1,121,000)
Valuation allowance	(59,285,000)	(54,534,000)
Deferred tax asset, net of valuation allowance	<u>\$ —</u>	<u>\$ —</u>
Changes in valuation allowance	<u>\$ (4,751,000)</u>	<u>\$ (9,490,000)</u>

A valuation allowance against deferred tax assets is required if, based on the weight of available evidence, it is more likely than not that some or all of the deferred tax assets may not be realized. The Company is in the early stages of development and realization of the deferred tax assets is not considered more likely than not. As a result, the Company has recorded a full valuation allowance for the net deferred tax asset.

Since inception of the Company on January 17, 2002, the Company has generated tax net operating losses of approximately \$140 million, expiring in 2022 through 2036. The tax loss carry-forwards of the Company may be subject to limitation by Section 382 of the Internal Revenue Code with respect to the amount utilizable each year. This limitation reduces the Company's ability to utilize net operating loss carry-forwards. The Company completed a Section 382 study for the period from inception through the year ended December 31, 2014 and recorded a limitation of \$3.2 million to their net operating loss carry-forward.

The Company has determined that there are no uncertain tax positions as of December 31, 2016 or 2015 and does not expect any significant change within the next year.

The Company files income tax returns in the U.S. federal jurisdiction and the state of Tennessee.

## **9. Commitments**

### Leases

The Company leases office and laboratory space in Knoxville, Tennessee on an annual basis, continuing for five years to January 1, 2020, unless 30 days' notice is given by either party to terminate the agreement. Rent expense was \$60,000 for the years ended December 31, 2016, 2015 and 2014.

### Employee Agreements

On April 28, 2014, the Company entered into amended and restated executive employment agreements (the "Employment Agreements") with each of the following executive officers of the Company: H. Craig Dees, Ph.D. to serve as its Chief Executive Officer, Timothy C. Scott, Ph.D. to serve as its President, Eric A. Wachter, Ph.D. to serve as its Chief Technology Officer, and Peter R. Culpepper to serve as its Chief Financial Officer and Chief Operating Officer (collectively, the "executives"). Effective February 27, 2016, Dr. Dees resigned as Chief Executive Officer and Chairman of the Board of Directors. Under the terms of the Amended and Restated Executive Employment Agreement entered into by Craig Dees and the Company on April 28, 2014 (the "Dees Agreement"), Dr. Dees is owed no severance payments as a result of his resignation. Dr. Dees's employment terminated with his resignation without "Good Reason" as that term is defined in the Dees Agreement. Under section 6 of the Dees Agreement, "Effect of Termination," a resignation by Dr. Dees without "Good Reason" terminates any payments due to Dr. Dees as of the last day of his employment.

Mr. Culpepper was terminated for "Cause" as the Interim Chief Executive Officer and Chief Operating Officer of the Company effective December 27, 2016 pursuant to the terms of the Amended and Restated Executive Employment Agreement entered into by Mr. Culpepper and the Company on April 28, 2014 (the "Culpepper Agreement"). Mr. Culpepper was owed no severance payments because he was terminated by us for "Cause" (as that term is defined in the Culpepper Agreement). Under section 6 of the Culpepper Agreement, a termination by us of Mr. Culpepper for "Cause" terminates any payments that would otherwise be due to Mr. Culpepper as of the last day of his employment. Mr. Culpepper disputes that he was terminated "for cause" under the Culpepper Agreement and Mr. Culpepper has demanded this issue be resolved by mediation. The mediation has been scheduled for June 28, 2017.

Each Employment Agreement provides that such executive will be employed for an initial term of five years, subject to automatic renewal for successive one-year periods, unless the executive or the Company (i) terminates the Employment Agreement and the executive's employment thereunder as provided in the Employment Agreement or (ii) provides notice of his or its intent not to renew. Each executive's initial base salary is \$500,000 per year, and any increases to such executive's base salary shall be determined by the Compensation Committee of the Company's Board of Directors in its sole discretion (the "Compensation Committee"). The executives are also eligible for annual bonuses and annual equity incentive awards as determined by the Compensation Committee in its sole discretion.

Each of the Employment Agreements generally provides that in the event that the executive's employment is terminated (i) voluntarily by the executive without Good Reason (as defined in the Employment Agreement), or (ii) by the Company for Cause (as defined in the Employment Agreement), the Company shall pay the executive's compensation only through the last day of the employment period and, except as may otherwise be expressly provided, the Company shall have no further obligation to the executive. In the event that the executive's employment is terminated by the Company other than for Cause (including death or disability), or if the

executive voluntarily resigns for Good Reason, for so long as the executive is not in breach of his continuing obligations under the non-competition, non-solicitation and confidentiality restrictions contained in the Employment Agreement, the Company shall continue to pay the executive (or his estate) an amount equal to his base salary in effect immediately prior to the termination of his employment for a period of 24 months, to be paid in accordance with the Company's regular payroll practices through the end of the fiscal year in which termination occurs and then in one lump sum payable to the executive in the first month of the calendar year following termination, as well as any prorated bonuses determined by the Compensation Committee, plus benefits on a substantially equivalent basis to those which would have been provided to the executive.

During the term of each executive's employment by the Company, and for a period of twenty-four (24) months following termination of employment, in the event that such executive voluntarily terminates his employment with the Company other than for Good Reason or such executive is terminated for Cause, then neither the executive nor any other person or entity with executive's assistance shall (i) participate in any business that is directly competitive with the Company's business or (ii) directly or indirectly, solicit any employee of the Company to quit or terminate their employment with the Company or employ as an employee, independent contractor, consultant, or in any other position, any person who was an employee of the Company or the Company's affiliates within the preceding six months, subject to certain exceptions. In addition, without the express written consent of the Company, each executive shall not at any time (either during or after the termination of executive's employment) use (other than for the benefit of the Company) or disclose to any other business entity proprietary or confidential information concerning the Company, any of their affiliates, or any of its officers. Neither shall such executive disclose any of the Company's or the Company's affiliates' trade secrets or inventions of which he gained knowledge during his employment with the Company (subject to certain exceptions).

#### ***10. 401(K) Profit Sharing Plan***

The Company maintains a retirement plan under Section 401(k) of the Internal Revenue Code, which covers all eligible employees. All employees with U.S. source income are eligible to participate in the plan immediately upon employment. Contributions made by the Company totaled approximately \$159,000, \$212,000 and \$320,000 in 2016, 2015 and 2014, respectively.

#### ***11. Fair Value of Financial Instruments***

The FASB's authoritative guidance on fair value measurements establishes a framework for measuring fair value, and expands disclosure about fair value measurements. This guidance enables the reader of the financial statements to assess the inputs used to develop those measurements by establishing a hierarchy for ranking the quality and reliability of the information used to determine fair values. Under this guidance, assets and liabilities carried at fair value must be classified and disclosed in one of the following three categories:

Level 1: Quoted market prices in active markets for identical assets or liabilities.

Level 2: Observable market based inputs or unobservable inputs that are corroborated by market data.

Level 3: Unobservable inputs that are not corroborated by market data.

In determining the appropriate levels, the Company performs a detailed analysis of the assets and liabilities that are measured and reported on a fair value basis. At each reporting period, all assets and liabilities for which the fair value measurement is based on significant unobservable inputs are classified as Level 3. The fair value of certain of the Company's financial instruments. The fair value of derivative instruments is determined by management with the assistance of an independent third party valuation specialist. The warrant liability is a derivative instrument and is classified as Level 3. The Company used the Monte-Carlo Simulation model to estimate the fair value of the warrants using the following assumptions:

	<u>For the Years Ended December 31,</u>		
	<u>2016</u>	<u>2015</u>	<u>2014</u>
<b>2010 Warrants:</b>			
Weighted average term	N/A	N/A	0.2 years
Probability the warrant exercise price be reset	N/A	N/A	5%
Volatility	N/A	N/A	63.7%
Risk free interest rate	N/A	N/A	0.03% - 0.04%
<b>2011 Warrants:</b>			
Weighted average term	N/A	0 years	1.0 years
Probability the warrant exercise price be reset	N/A	5%	5%
Volatility	N/A	40.4%	159.2%
Risk free interest rate	N/A	0.13%	0.25%
<b>2016 Warrants:</b>			
Expected term	4.77 - 5.00 years	N/A	N/A
Expected dividends	0%	N/A	N/A
Volatility	107.8% - 114.7%	N/A	N/A
Risk free interest rate	0.88% - 1.40%	N/A	N/A

The value of the warrant liability was determined based on the Monte-Carlo Simulation model at the date the warrants were issued. The warrant liability is then revalued at each subsequent quarter. During the year ended December 31, 2014, 1,850,000 of the warrants included in the warrant liability were exercised, which is the remainder of the 2013 warrants. The Company determined the fair value of the warrants exercised on the date of exercise and adjusted the related warrant liability accordingly. The adjusted fair value of the warrants exercised in 2014 of \$4,047,116 was reclassified into additional paid-in capital. For the year ended December 31, 2014 there was a loss recognized from the revaluation of the warrant liability of \$878,806.

The warrant liability measured at fair value on a recurring basis is as follows:

	<u>Total</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
<b>Derivative instruments:</b>				
Warrant liability at December 31, 2016	\$—	\$ —	\$ —	\$ —
Warrant liability at December 31, 2015	\$—	\$ —	\$ —	\$ —

A reconciliation of the warranty liability measured at fair value on a recurring basis with the use of significant unobservable inputs (Level 3) from January 1, 2015 to December 31, 2016 follows:

Balance at January 1, 2015	\$ 146,560
Gain on change in fair value of warrant liability	(146,560)
Balance at December 31, 2015	\$ —
Issuance of warrants	3,678,989
Gain on change in fair value of warrant liability	(518,875)
Reclassification to warrant liability	(3,160,114)
Balance at December 31, 2016	<u>\$ —</u>

See Note 6 – Stockholders’ Equity – August 2016 Public Offering.

## **12. Litigation**

### *Kleba Shareholder Derivative Lawsuit*

On January 2, 2013, Glenn Kleba, derivatively on behalf of the Company, filed a shareholder derivative complaint in the Circuit Court for the State of Tennessee, Knox County (the “Court”), against Dr. Dees, Timothy C. Scott, Eric A. Wachter, and Peter R. Culpepper (collectively, the “Executives”), Stuart Fuchs, Kelly M. McMasters, and Alfred E. Smith, IV (collectively, together with the Executives, the “Individual Defendants”), and against the Company as a nominal defendant (the “Shareholder Derivative Lawsuit”). The Shareholder Derivative Lawsuit alleged (i) breach of fiduciary duties, (ii) waste of corporate assets, and (iii) unjust enrichment, all three claims based on Mr. Kleba’s allegations that the defendants authorized and/or accepted stock option awards in violation of the terms of the Company’s 2002 Stock Plan (the “Plan”) by issuing stock options in excess of the amounts authorized under the Plan and delegated to defendant Dr. Dees the sole authority to grant himself and the other Executives cash bonuses that Mr. Kleba alleges to be excessive.

In April 2013, the Company’s Board of Directors appointed a special litigation committee to investigate the allegations of the Shareholder Derivative Complaint and make a determination as to how the matter should be resolved. The special litigation committee conducted its investigation, and proceedings in the case were stayed pending the conclusion of the committee’s investigation. At that time, the Company established a reserve of \$100,000 for potential liabilities because such is the amount of the self-insured retention of its insurance policy. On February 21, 2014, an Amended Shareholder Derivative Complaint was filed which added Don B. Dale (“Mr. Dale”) as a plaintiff.

On March 6, 2014, the Company filed a Joint Notice of Settlement (the “Notice of Settlement”) in the Shareholder Derivative Lawsuit. In addition to the Company, the parties to the Notice of Settlement are Mr. Kleba, Mr. Dale and the Individual Defendants.

On June 6, 2014, the Company, in its capacity as a nominal defendant, entered into a Stipulated Settlement Agreement and Mutual Release (the “Settlement”) in the Shareholder Derivative Lawsuit. In addition to the Company and the Individual Defendants, Plaintiffs Glenn Kleba and Don B. Dale are parties to the Settlement.

By entering into the Settlement, the settling parties resolved the derivative claims to their mutual satisfaction. The Individual Defendants have not admitted the validity of any claims or allegations and the settling plaintiffs have not admitted that any claims or allegations lack merit or foundation. Under the terms of the Settlement, (i) the Executives each agreed (A) to re-pay to the Company \$2.24 million of the cash bonuses they each received in 2010 and 2011, which amount equals 70% of such bonuses or an estimate of the after-tax net proceeds to each Executive; provided, however, that subject to certain terms and conditions set forth in the Settlement, the Executives are entitled to a 2:1 credit such that total actual repayment may be \$1.12 million each; (B) to reimburse the Company for 25% of the actual costs, net of recovery from any other source, incurred by the Company as a result of the Shareholder Derivative Lawsuit; and (C) to grant to the Company a first priority security interest in 1,000,000 shares of the Company’s common stock owned by each such Executive to serve as collateral for the amounts due to the Company under the Settlement; (ii) Drs. Dees and Scott and Mr. Culpepper agreed to retain incentive stock options for 100,000 shares but shall forfeit 50% of the nonqualified stock options granted to each such Executive in both 2010 and 2011. The Settlement also requires that each of the Executives enter into new employment agreements with the Company, which were entered into on April 28, 2014, and that the Company adhere to certain corporate governance principles and processes in the future. Under the Settlement, Messrs. Fuchs and Smith and Dr. McMasters have each agreed to pay the Company \$25,000 in cash, subject to reduction by such amount that the Company’s insurance carrier pays to the Company on behalf of such defendant pursuant to such defendant’s directors and officers liability insurance policy. The Settlement also provides for an award to plaintiffs’ counsel of attorneys’ fees and reimbursement of expenses in connection with their role in this litigation, subject to Court approval. See Note 5 – Long-Term Receivables.

On July 24, 2014, the Court approved the terms of the proposed Settlement and awarded \$911,000 to plaintiffs’ counsel for attorneys’ fees and reimbursement of expenses in connection with their role in the Shareholder Derivative Lawsuit. The payment to plaintiff’s counsel was made by the Company during October 2014 and was recorded as other current assets at December 31, 2014, as the Company is seeking reimbursement of the full amount from its insurance carrier. If the full amount is not received from insurance, the amount remaining will be reimbursed to the Company from the Individual Defendants. A reserve for uncollectibility of \$227,750 was established at December 31, 2015 in connection with the resignation of Dr. Dees. A reserve for uncollectibility of \$227,750 was established at December 31, 2016 in connection with the termination of Mr. Culpepper. As of December 31, 2016 and 2015, the net amount of the receivable of \$455,500 and \$683,250, respectively, is included in non-current assets on the consolidated balance sheets.

On October 3, 2014, the Settlement was effective and stock options for Dr. Dees, Dr. Scott and Mr. Culpepper were rescinded, totaling 2,800,000. \$900,000 was repaid by the Executives as of December 31, 2015 and \$600,000 was repaid by the Executives during the year ended December 31, 2016. The remaining cash settlement amounts will continue to be repaid to the Company over the next three years with the final payment to be received by October 3, 2019. \$82,440 and \$103,969 of the settlement discount was amortized during the year ended December 31, 2016 and 2015, respectively, which is included within general and administrative expenses on the consolidated statements of operations and within cash flows from operating activities on the consolidated statements of cash flows. The remaining balance due the Company as of December 31, 2016 is \$1,315,710, including a reserve for uncollectibility of \$1,549,043 in connection with the resignation of Dr. Dees and termination of Mr. Culpepper, with a present value discount remaining of \$57,623. As a result of his resignation, Dr. Dees is no longer entitled to the 2:1 credit, such that his total repayment obligation of \$2,040,000 (the total \$2.24 million owed by Dr. Dees pursuant to the Settlement less the \$200,000 that he repaid as of December 31, 2015) plus Dr. Dees's proportionate share of the litigation costs is immediately due and payable. The Company sent Dr. Dees a notice of default in March 2016 for the total amount he owes the Company. As a result of his termination, Mr. Culpepper is no longer entitled to the 2:1 credit, such that his total repayment obligation of \$2,051,083 (the total \$2,240,000 owed by Mr. Culpepper pursuant to the Settlement plus Mr. Culpepper's proportionate share of the litigation cost of \$227,750 less the \$416,667 that he repaid as of December 31, 2016) is immediately due and payable. The Company sent Mr. Culpepper a notice of default in January 2017 for the total amount he owes the Company. See Note 4 – Related Party Transactions and Note 5 – Long-Term Receivables.

#### *Class Action Lawsuits*

On May 27, 2014, Cary Farrah and James H. Harrison, Jr., individually and on behalf of all others similarly situated (the "Farrah Case"), and on May 29, 2014, each of Paul Jason Chaney, individually and on behalf of all others similarly situated (the "Chaney Case"), and Jayson Dauphinee, individually and on behalf of all others similarly situated (the "Dauphinee Case") (the plaintiffs in the Farrah Case, the Chaney Case and the Dauphinee Case collectively referred to as the "Plaintiffs"), each filed a class action lawsuit in the United States District Court for the Middle District of Tennessee against the Company, Dr. Dees, Timothy C. Scott and Peter R. Culpepper (the "Defendants") alleging violations by the Defendants of Sections 10(b) and 20(a) of the Exchange Act and Rule 10b-5 promulgated thereunder and seeking monetary damages. Specifically, the Plaintiffs in each of the Farrah Case, the Chaney Case and the Dauphinee Case allege that the Defendants are liable for making false statements and failing to disclose adverse facts known to them about the Company, in connection with the Company's application to the FDA for Breakthrough Therapy Designation ("BTD") of the Company's melanoma drug, PV-10, in the Spring of 2014, and the FDA's subsequent denial of the Company's application for BTD.

On July 9, 2014, the Plaintiffs and the Defendants filed joint motions in the Farrah Case, the Chaney Case and the Dauphinee Case to consolidate the cases and transfer them to United States District Court for the Eastern District of Tennessee. By order dated July 16, 2014, the United States District Court for the Middle District of Tennessee entered an order consolidating the Farrah Case, the Chaney Case and the Dauphinee Case (collectively and, as consolidated, the "Securities Litigation") and transferred the Securities Litigation to the United States District Court for the Eastern District of Tennessee.

On November 26, 2014, the United States District Court for the Eastern District of Tennessee (the "Court") entered an order appointing Fawwaz Hamati as the Lead Plaintiff in the Securities Litigation, with the Law Firm of Glancy Binkow & Goldberg, LLP as counsel to Lead Plaintiff. On February 3, 2015, the Court entered an order compelling the Lead Plaintiff to file a consolidated amended complaint within 60 days of entry of the order.

On April 6, 2015, the Lead Plaintiff filed a Consolidated Amended Class Action Complaint (the "Consolidated Complaint") in the Securities Litigation, alleging that Provectus and the other individual defendants made knowingly false representations about the likelihood that PV-10 would be approved as a candidate for BTD, and that such representations caused injury to Lead Plaintiff and other shareholders. The Consolidated Complaint also added Eric Wachter as a named defendant.

On June 5, 2015, Provectus filed its Motion to Dismiss the Consolidated Complaint (the "Motion to Dismiss"). On July 20, 2015, the Lead Plaintiff filed his response in opposition to the Motion to Dismiss (the "Response"). Pursuant to order of the Court, Provectus replied to the Response on September 18, 2015.

On October 1, 2015, the Court entered an order staying a ruling on the Motion to Dismiss pending a mediation to resolve the Securities Litigation in its entirety. A mediation occurred on October 28, 2015. On January 28, 2016, a settlement terms sheet (the "Terms Sheet") was executed by counsel for the Company and counsel for the Lead Plaintiff in the consolidated Securities Litigation.

Pursuant to the Terms Sheet, the parties agreed, contingent upon the approval of the court in the consolidated Securities Litigation, to settle the cases as a class action on the basis of a class period of December 17, 2013 through May 22, 2014. The Company and its insurance carrier agreed to pay the total amount of \$3.5 million (the “Settlement Funds”), \$1.85 million of which was paid by the Company, and \$1.65 million of which was paid by the insurance carrier directly to the plaintiff’s trust escrow account. The \$1.85 million paid by the Company was accrued as of December 31, 2015 and paid during 2016.

A Stipulation of Settlement encompassing the details of the settlement and procedures for preliminary and final court approval was filed on March 8, 2016. The Stipulation of Settlement incorporates the provisions of the Terms Sheet and includes the procedures for providing notice to stockholders who bought or sold stock of the Company during the class period. The Stipulation of Settlement further provides for (1) the methodology of administering and calculating claims, final awards to stockholders, and supervision and distribution of the Settlement Funds and (2) the procedure for preliminary and final approval of the settlement of the Securities Litigation.

On April 7, 2016, the court in the Securities Litigation held a hearing on preliminary approval of the settlement, entered an order preliminarily approving the settlement, ordered that the class be notified of the settlement as set forth in the Stipulation of Settlement, and set a hearing on September 26, 2016 to determine whether the proposed settlement is fair, reasonable, and adequate to the class; whether the class should be certified and the plan of allocation of the Settlement Funds approved; whether to grant Lead Plaintiff’s request for expenses and Lead Plaintiff’s counsel’s request for fees and expenses; and whether to enter judgment dismissing the Securities Litigation as provided in the Stipulation of Settlement. On September 16, 2016, the Lead Plaintiff notified the court that approximately 6,300 stockholders did not receive notification of the proposed settlement until late August 2016 because of the delayed receipt of potential Settlement Class Member information from a number of brokers. As a result, on September 22, 2016, the parties filed a joint motion requesting that the court extend the deadlines to file a Proof of Claim, request exclusion from the settlement, or file an objection to the settlement, and that the court schedule a continued settlement hearing. The court granted the motion, cancelling the settlement hearing that had been set for September 26 and re-setting the hearing to take place on December 12, 2016. On December 2, 2016, the Lead Plaintiffs’ counsel reported to the court that there have been no requests for exclusion from the settlement and no objections to the proposed settlement. On December 12, 2016, the court held a final hearing on the fairness of the settlement and entered an order approving the settlement and dismissing the action with prejudice.

#### *2014-2015 Derivative Lawsuits*

On June 4, 2014, Karla Hurtado, derivatively on behalf of the Company, filed a shareholder derivative complaint in the United States District Court for the Middle District of Tennessee against H. Craig Dees, Timothy C. Scott, Jan E. Koe, Kelly M. McMasters, and Alfred E. Smith, IV (collectively, the “Individual Defendants”), and against the Company as a nominal defendant (the “Hurtado Shareholder Derivative Lawsuit”). The Hurtado Shareholder Derivative Lawsuit alleges (i) breach of fiduciary duties and (ii) abuse of control, both claims based on Ms. Hurtado’s allegations that the Individual Defendants (a) recklessly permitted the Company to make false and misleading disclosures and (b) failed to implement adequate controls and procedures to ensure the accuracy of the Company’s disclosures. On July 25, 2014, the United States District Court for the Middle District of Tennessee entered an order transferring the case to the United States District Court for the Eastern District of Tennessee and, in light of the pending Securities Litigation, relieving the Individual Defendants from responding to the complaint in the Hurtado Shareholder Derivative Lawsuit pending further order from the United States District Court for the Eastern District of Tennessee.

On October 24, 2014, Paul Montiminy brought a shareholder derivative complaint on behalf of the Company in the United States District Court for the Eastern District of Tennessee (the “Montiminy Shareholder Derivative Lawsuit”) against H. Craig Dees, Timothy C. Scott, Jan E. Koe, Kelly M. McMasters, and Alfred E. Smith, IV (collectively, the “Individual Defendants”). As a practical matter, the factual allegations and requested relief in the Montiminy Shareholder Derivative Lawsuit are substantively the same as those in the Hurtado Shareholder Derivative Lawsuit. On December 29, 2014, the United States District Court for the Eastern District of Tennessee (the “Court”) entered an order consolidating the Hurtado Shareholder Derivative Lawsuit and the Montiminy Derivative Lawsuit. On April 9, 2015, the United States District Court for the Eastern District of Tennessee entered an Order staying the Hurtado and Montiminy Shareholder Derivative Lawsuits pending a ruling on the Motion to Dismiss filed by the Company in the Securities Litigation.

On October 28, 2014, Chris Foley, derivatively on behalf of the Company, filed a shareholder derivative complaint in the Chancery Court of Knox County, Tennessee against H. Craig Dees, Timothy C. Scott, Jan E. Koe, Kelly M. McMasters, and Alfred E. Smith, IV (collectively, the “Individual Defendants”), and against the Company as a nominal defendant (the “Foley Shareholder Derivative Lawsuit”). The Foley Shareholder Derivative Lawsuit was brought by the same attorney as the Montiminy Shareholder Derivative Lawsuit, Paul Kent Bramlett of Bramlett Law Offices. Other than the difference in the named plaintiff, the complaints in the Foley



Shareholder Derivative Lawsuit and the Montiminy Shareholder Derivative Lawsuit are identical. On March 6, 2015, the Chancery Court of Knox County, Tennessee entered an Order staying the Foley Derivative Lawsuit until the United States District Court for the Eastern District of Tennessee issues a ruling on the Motion to Dismiss filed by the Company in the Securities Litigation.

On June 24, 2015, Sean Donato, derivatively on behalf of the Company, filed a shareholder derivative complaint in the Chancery Court of Knox County, Tennessee against H. Craig Dees, Timothy C. Scott, Jan. E. Koe, Kelly M. McMasters, and Alfred E. Smith, IV (collectively, the “Individual Defendants”), and against the Company as a nominal defendant (the “Donato Shareholder Derivative Lawsuit”). Other than the difference in the named plaintiff, the Donato Shareholder Derivative Lawsuit is virtually identical to the other pending derivative lawsuits. All of these cases assert claims against the Defendants for breach of fiduciary duties based on the Company’s purportedly misleading statements about the likelihood that PV-10 would be approved by the FDA.

As a nominal defendant, no relief is sought against the Company itself in the Hurtado, Montiminy, Foley, and Donato Shareholder Derivative Lawsuits.

While the parties to the Securities Litigation were negotiating and documenting the Stipulation of Settlement in the Securities Litigation, the parties to the Hurtado, Montiminy, and Foley Shareholder Derivative Lawsuits, through counsel, engaged in settlement negotiations as well. On or about April 11, 2016, the parties entered into a Stipulation of Settlement, which was filed with the United States District Court for the Eastern District of Tennessee on April 29, 2016.

Pursuant to the Stipulation of Settlement, the parties agreed to settle the cases, contingent upon the approval of the court. The Company agreed to implement certain corporate governance changes, including the adoption of a Disclosure Controls and Procedures Policy, and to use its best efforts to replace one of its existing directors with an independent outside director by June 30, 2017. The Company agreed to pay from insurance proceeds the amount of \$300,000 to plaintiffs’ counsel in the Hurtado, Montiminy, Foley, and Donato Shareholder Derivative Lawsuits. The insurance carrier paid such amount directly to the plaintiff’s trust escrow account and it did not pass through the Company.

The United States District Court for the Eastern District of Tennessee preliminarily approved the settlement by order dated June 2, 2016. Pursuant to this court order, the notice to the class was filed with the SEC, published on the Company’s website, and posted on plaintiffs’ counsel’s websites by June 13, 2016. On August 26, 2016, the court held a final hearing on the fairness of the settlement and entered an order approving the settlement and dismissing the action with prejudice.

#### *Dees Collection Lawsuit and Culpepper Claims*

See Note 4 - Related Party Transactions for information regarding the Company’s lawsuit against Dr. Dees and claims against Mr. Culpepper and Mr. Culpepper’s claims against the Company.

#### *The Bible Harris Smith Lawsuit*

On November 17, 2016, the Company filed a lawsuit in the Circuit Court for Knox County, Tennessee against Bible Harris Smith PC (BHS) for professional negligence, common law negligence and breach of fiduciary duty arising from accounting services provided by BHS to the Company. The Company alleges that between 2013 and the present, Dr. Dees received approximately \$2.4 million in advanced or reimbursed travel and entertainment expenses from the Company and that Dr. Dees did not submit back-up documentation in support of substantially all of the advances he received purportedly for future travel and entertainment expenses. The Company further alleges that had BHS provided competent accounting and tax preparation services, it would have discovered Dr. Dees’s failure to submit back-up documentation supporting the advanced travel funds at the inception of Dr. Dees’s conduct, and prevented the misuse of these and future funds. The Company has made a claim for damages against BHS in an amount in excess of \$3 million. The Complaint against BHS has been filed and served, an answer has been received and the parties have begun discovery.

#### *Other Regulatory Matters*

The Company has received a subpoena from the staff of the SEC related to the travel expense advancements and reimbursements received by H. Craig Dees, the Company’s former Chief Executive Officer, and the Company has received a subsequent subpoena from the staff of the SEC related to the travel expense advancements and reimbursements received by Peter R. Culpepper, the Company’s former Interim Chief Executive Officer and Chief Operating Officer and former Chief Financial Officer. At this time, the staff’s investigation into these matters remains ongoing. The Company is cooperating with the staff but cannot predict with any certainty what the outcome of the foregoing may be.

### 13. Selected Quarterly Financial Data (Unaudited)

The following tables present a summary of quarterly results of operations for 2016 and 2015:

	Three Months Ended			
	March 31, 2016	June 30, 2016	September 30, 2016	December 31, 2016
<b>Consolidated Statement of Operations Data:</b>				
Total operating loss	\$ (8,507)	\$ (5,045)	\$ (5,777)	\$ (5,183)
Other income (expense), net	1	1	(99)	182
Net income (loss)	(8,506)	(5,044)	(5,876)	(5,001)
Net income (loss) applicable to common shareholders	<u>\$ (8,506)</u>	<u>\$ (5,044)</u>	<u>\$ (8,861)</u>	<u>\$ (6,449)</u>
Basic and diluted income (loss) per common share	\$ (0.04)	\$ (0.02)	\$ (0.04)	\$ (0.02)
Weighted average number of common shares outstanding- basic and diluted	205,279	212,829	222,960	293,792

	Three Months Ended			
	March 31, 2015	June 30, 2015	September 30, 2015	December 31, 2015
<b>Consolidated Statement of Operations Data:</b>				
Total operating loss	\$ (4,620)	\$ (4,592)	\$ (5,779)	\$ (9,663)
Other income (expense), net	95	47	(1)	11
Net income (loss)	(4,525)	(4,545)	(5,780)	(9,652)
Net income (loss) applicable to common shareholders	<u>\$ (4,525)</u>	<u>\$ (4,545)</u>	<u>\$ (5,780)</u>	<u>\$ (9,652)</u>
Basic and diluted income (loss) per common share	\$ (0.02)	\$ (0.02)	\$ (0.03)	\$ (0.05)
Weighted average number of common shares outstanding- basic and diluted	185,196	187,793	204,610	204,735

### 14. Subsequent Events

The Company has evaluated subsequent events through the date of the filing of these financial statements.

#### Convertible Promissory Note

On February 21, 2017, the Company issued a convertible promissory note in favor of Eric A. Wachter, the Company's Chief Technology Officer ("Lender"), evidencing an unsecured loan from Lender to the Company in the original principal amount of up to \$2,500,000 (the "Promissory Note"). Interest accrues on the outstanding balance of the Promissory Note at six percent (6%) per annum calculated on a 360-day basis.

As of March 29, 2017, the Company has borrowed the entire \$2,500,000 principal amount under the Promissory Note. Sixty percent (60%) of the proceeds advanced under the Promissory Note must be used for the Company's research and development expenses, and the remaining forty percent (40%) of the proceeds advanced under the Promissory Note must be used for the Company's general administrative expenses.

Pursuant to the terms of the Promissory Note, in the event that, prior to the repayment in full of the Promissory Note, the Company consummates a bona fide equity financing conducted with the principal purpose of raising capital, pursuant to which the Company sells shares or units of an equity security or preferred equity approved by the board of directors, which board of directors must consist of at least a majority of the members on the board of directors serving as of the date of the Promissory Note (a "Qualified Equity Financing"), then such amount of the outstanding principal due under the Promissory Note plus all accrued but unpaid interest that may be included in the Qualified Equity Financing shall automatically convert into the equity securities or securities convertible into equity securities of the Company issued in such Qualified Equity Financing ("New Securities") at the price per New Security at which the Company issues any New Securities in any public or private offering during the period that the Promissory Note is outstanding and otherwise on the same terms (including the same rights, preferences and privileges) as the other investors that purchase New Securities in such Qualified Equity Financing.

The Promissory Note matures on the earlier of (i) May 22, 2017, (ii) the date upon which the Company defaults under the Promissory Note or (iii) the date on which the Promissory Note is converted into New Securities (the earliest of such dates, the "Maturity Date"). In lieu of repayment on the Maturity Date, Lender may elect in his sole discretion to apply any and all amounts due and owing to Lender under the Promissory Note to Lender's obligations under that certain Settlement Agreement dated June 6, 2014 by and between Lender and the Company.

Further, under the Promissory Note, the Company has agreed to pay to Lender up to \$25,000 for Lender's reasonable legal fees and expenses incurred in connection with the transactions contemplated by the Promissory Note. The Company may prepay principal and interest under the Promissory Note at any time, in whole or in part, without premium or other prepayment charges.

Pursuant to a Waiver of Rights Agreement, Lender further agreed to waive his rights (A) to foreclose on the assets of the Company or (B) to initiate, or cause the initiation of, any proceeding in bankruptcy or the appointment of any custodian, trustee or liquidator of the Company or of all or a portion of the Company's assets in the event of default under the Promissory Note so long as (i) any shares of Series C Preferred Stock of the Company issued pursuant to the Rights Offering commenced by the Company on January 30, 2017 remain outstanding (other than such shares of Series C Preferred Stock held by Lender) and (ii) a change in control of the Company has not occurred, which is any transaction that results in either (a) the shareholders of the Company not continuing to hold at least 50% of the voting interest in the Company after such transaction or (b) the directors of the Company serving on the board of directors as of February 21, 2017 no longer represent a majority of the outstanding board members.

#### *Termination of Rights Offering*

On October 5, 2016, the Company filed a registration statement on Form S-1 with the SEC, as amended on November 1, 2016, November 22, 2016, December 6, 2016, December 21, 2016, January 19, 2017 and January 26, 2017 to issue subscription rights

("Rights") to the Company's existing common stockholders and holders of the Company's class of warrants with an exercise price of \$0.85 expiring June 19, 2020 (the "Listed Warrants") to purchase units ("Units") consisting of shares of common stock and Series C Preferred Stock (the "Rights Offering"). Each share of Series C Preferred Stock was to be convertible into eight (8) shares of common stock. Each Right would have entitled holders of the Company's common stock and Listed Warrants to purchase one Unit. On March 20, 2017, the Company announced the termination of the Rights Offering without accepting any funds from investors. Broadridge Corporate Issuer Solutions, Inc., the subscription agent for the Rights Offering ("Broadridge"), returned all subscription payments received by Broadridge to investors, without interest or penalty. All subscription rights expired upon termination of the Rights Offering. On March 24, 2017, the Company filed a Certificate of Elimination to cancel the Series C Preferred Stock with the Secretary of State of the State of Delaware.

#### *Term Sheet for 2017 Financing*

On March 19, 2017, the Company entered into an exclusive Definitive Financing Commitment Term Sheet with a group of the Company's stockholders, which was amended and restated effective as of March 19, 2017 (the "Term Sheet"), which sets forth the terms on which such investors will use their best efforts to arrange for a financing of a minimum of \$10,000,000 and maximum of \$20,000,000 (the "2017 Financing"), \$2,500,000 of which will be funded into Escrow (as defined below) upon the execution of definitive documents, and, the \$2,500,000 Promissory Note will be exchanged for a Note (as defined below) on the terms described below upon the funding of such first tranche into Escrow.

The 2017 Financing will be in the form of a secured convertible loan (the "Loan") from the investors (collectively, the "Investors"). The Loan will be evidenced by secured convertible promissory notes (each, a "Note") from the Company to the Investors. In addition to the customary provisions, the Note shall contain the following provisions:

- (i) It will be secured by a first priority security interest on the Company's intellectual property (the "IP");
- (ii) The Loan will bear interest at the rate of eight percent (8%) per annum on the outstanding principal amount of the Loan that has been funded to the Company;
- (iii) The Loan proceeds will be held in one or more accounts (the "Escrow") pending the funding of the tranches of the 2017 Financing pursuant to borrowing requests made by the Company;
- (iv) In the event there is a change of control of the Company's board of directors ("Board") as proposed by any person or group other than the Investors, the term of the Note will be accelerated and all amounts due under the Note will be immediately due and payable, plus interest at the rate of eight percent (8%) per annum, plus a penalty in the amount equal to ten times (10x) the outstanding principal amount of the Loan that has been funded to the Company;
- (v) The outstanding principal amount and interest payable under the Loan will be convertible at the sole discretion of the Investors into shares of the Company's Series D Preferred Stock, a new series of preferred stock to be designated by the Board, at a price per share equal to \$0.2862; and
- (vi) Notwithstanding (v) above, the principal amount of the Note and the interest payable under the Loan will automatically convert into shares of the Company's Series D Preferred Stock at a price per share equal to \$0.2862 effective on the 18 month anniversary of the funding of the final tranche of the 2017 Financing subject to certain exceptions.

The Series D Preferred Stock shall have a first priority right to receive proceeds from the sale, liquidation or dissolution of the Company or any of the Company's assets (each, a "Company Event"). If a Company Event occurs within two (2) years of the date of issuance of the Series D Preferred Stock (the "Date of Issuance"), the holders of Series D Preferred Stock shall receive a preference of four times (4x) their respective investment amount. If a Company Event occurs after the second (2nd) anniversary of the Date of Issuance, the holders of the Series D Preferred Stock shall receive a preference of six times (6x) their respective investment amount.

The Series D Preferred Stock shall be convertible at the option of the holders thereof into shares of the Company's common stock based on a formula to achieve a one-for-one conversion ratio. The Series D Preferred Stock shall automatically convert into shares of Common Stock upon the fifth anniversary of the Date of Issuance. On an as-converted basis, the Series D Preferred Stock shall carry the right to one (1) vote per share. The Series D Preferred Stock shall not have any dividend preference but shall be entitled to receive, on a pari passu basis, dividends, if any, that are declared and paid on any other class of the Company's capital stock. The holders of Series D Preferred Stock shall not have anti-dilution protection.

## **ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE.**

Not applicable.

## **ITEM 9A. CONTROLS AND PROCEDURES.**

### **Management's Annual Report on Internal Control over Financial Reporting**

The information contained in this section covers management's evaluation of our disclosure controls and procedures and our assessment of our internal control over financial reporting for the year ended December 31, 2016.

### **Evaluation of Disclosure Controls and Procedures**

Management, with the participation of our principal executive officer and principal financial officer, carried out an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act. Based on this evaluation, our principal executive officer and principal financial officer concluded that, as of the end of the period covered in this report, our disclosure controls and procedures along with the related internal controls over financial reporting were not effective to provide reasonable assurance that the information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in SEC rules and forms, and is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosure.

### **Inherent Limitations on Effectiveness of Controls**

Even assuming the effectiveness of our controls and procedures, our management, including our principal executive officer and principal financial officer, does not expect that our disclosure controls or our internal control over financial reporting will prevent or detect all error or all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. In general, our controls and procedures are designed to provide reasonable assurance that our control system's objective will be met, and our principal executive officer and principal financial officer has concluded that our disclosure controls and procedures are not effective at the reasonable assurance level. The design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Further, because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Projections of any evaluation of the effectiveness of controls in future periods are subject to risks. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures.

Our management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rule 13a-15(f) and 15d-15(f) under the Exchange Act). Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of our financial statements for external purposes in accordance with GAAP. Our internal control over financial reporting includes those policies and procedures that: (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures by us are being made only in accordance with authorizations of our management and directors; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of our assets that could have a material effect on the consolidated financial statements.

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting as of the period covered by this report based on the criteria for effective internal control described in Internal Control – Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). Based on the results of management's assessment and evaluation, our principal executive officer and principal financial officer concluded that our internal control over financial reporting was not effective due to the material weaknesses described below.

Our independent registered public accounting firm, Marcum LLP, assessed the effectiveness of the Company's internal control over financial reporting. Marcum LLP has issued an attestation report on our internal control over financial reporting as of December 31, 2016, which is set forth below.

### ***Material Weaknesses***

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis. Management's review of the year's activities in combination with its assessment of internal controls at December 31, 2016 identified the below-described material weaknesses:

- (1) Our former executives failed to set an appropriate "Tone at the Top." Specifically, our former executives failed to act in accordance with our Code of Ethics and Conduct as well as our travel and entertainment expense reimbursement policy.
- (2) Inadequate design of controls over period end financial reporting and disclosure processes.
- (3) Certain control procedures were not in place while others were unable to be verified due to performance of the procedure not being sufficiently documented. As an example, some procedures requiring review of certain reports could not be verified due to there being no written documentation of such review.
- (4) The Company did not maintain adequate segregation of duties related to the approval and execution of certain transactions impacting our financial reporting. Management believes that all transactions have been duly authorized, however there was a lack of written evidence of such authorization, review and approval.
- (5) The Company failed to maintain general control activities over its Information Technology ("IT") environment to support its objectives. Specifically, the Company has not properly completed an IT risk or security assessment, resulting in deficiencies in data protection, vendor management, completeness, accuracy and availability of technology processing.

Our 2015 internal control testing identified inadequate supporting documentation and lack of adequate review for travel advances and expense reimbursements. The Audit Committee conducted a review of Company procedures, policies and practices, including travel expense advancements and reimbursements to H. Craig Dees, our former Chief Executive Officer. The Audit Committee retained independent counsel and an advisory firm with forensic accounting expertise to assist the Audit Committee in conducting the investigation. As part of the investigation, the Audit Committee reviewed our financial policies and procedures, including management expenses. The Audit Committee concluded that Dr. Dees did not produce receipts for most of the travel expense advances he received from 2013 to 2015, and some receipts produced by Dr. Dees during this period appear to have been altered.

A subsequent investigation conducted by a special committee of the Board of Directors regarding Mr. Culpepper's travel expenses concluded that Mr. Culpepper, our Interim Chief Executive Officer and former Chief Financial Officer, did not produce receipts and/or proof of travel for certain travel expense advances he received.

### ***Remediation***

Our remediation plan is still in process and, as such, most of these material weaknesses continued to exist at December 31, 2016 and as of the date of this filing. We have put in place more clearly defined, tighter controls, including a clear process for limiting, approving and documenting travel advances and expenses and appropriately managing them. Specifically, we have:

- Adopted a control enhancement to require the provision of all invoice copies along with the check register for appropriate approval, including all travel reimbursements separately approved;
- Established a policy so travel advances are no longer permitted; and
- Implemented a more formal and detailed travel and expense reimbursement policy.
- Rolled out a quarterly financial close checklist.

In addition, we have replaced the independent consulting group previously utilized by management to aid in our documentation and testing of internal controls over financial reporting and appointed John Glass as our Interim Chief Financial Officer to assist in the organization and strategic operation of the Company as to its procedures and daily operations of the Company. We are also in the process of implementing many of the other recommendations made by counsel to the Audit Committee to remediate these issues, including the identification and recruitment of a permanent Chief Executive Officer and any other positions necessary. We believe the foregoing actions will continue to improve our internal control over financial reporting as well as our disclosure controls and procedures. We will continue to monitor the effectiveness of our internal control over financial reporting in the areas affected by the material weaknesses discussed above, and will perform any additional procedures, as well as implement any new resources and policies, deemed necessary by our management to remediate the material weaknesses.

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

There has been no change in our internal control over financial reporting that occurred during the fourth quarter of 2016 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM ON  
INTERNAL CONTROL OVER FINANCIAL REPORTING**

To the Audit Committee of the  
Board of Directors and Shareholders of  
Provectus Biopharmaceuticals, Inc.

We have audited Provectus Biopharmaceuticals, Inc.'s (the "Company") internal control over financial reporting as of December 31, 2016 based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013). The Company's management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying "Management Annual Report on Internal Control over Financial Reporting". Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed 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. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

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

A material weakness is a control deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the Company's annual or interim financial statements will not be prevented or detected on a timely basis. The following material weaknesses have been identified and included in "Management's Report on Internal Control Over Financial Reporting".

- 1) The Company's former executives failed to set an appropriate "Tone at the Top." Specifically, the Company's former executives failed to act in accordance with the Company's Code of Ethics and Conduct as well as the Company's travel and entertainment expenses reimbursement policy.
- 2) Certain control procedures were not in place while others were unable to be verified due to performance of the procedure not being sufficiently documented. As an example, some procedures requiring review of certain reports could not be verified due to there being no written documentation of such review. Also there is insufficient documentation to verify sufficient interactions of our internal accountants with the Company's Audit Committee.
- 3) Inadequate design of controls over period end financial reporting and disclosure processes.
- 4) The Company did not maintain adequate segregation of duties related to the approval and execution of certain transactions impacting our financial reporting. Management believes that all transactions have been duly authorized, however there was a lack of written evidence of such authorization, review and approval.
- 5) The Company failed to maintain general control activities over its Information Technology ("IT") environment to support its objectives. Specifically, the Company has not properly completed an IT risk or security assessment, resulting in deficiencies in data protection, vendor management, completeness, accuracy and availability of technology processing.

These material weaknesses were considered in determining the nature, timing and extent of audit tests applied in our audit of the Company's December 31, 2016 consolidated financial statements, and this report does not affect our report dated March 31, 2017.

In our opinion, as a result of the effects of the material weaknesses described above, Provectus Biopharmaceuticals, Inc. did not maintain, in all material aspects, effective internal control over financial reporting as of December 31, 2016 based on criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013).

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheet as of December 31, 2016 and the related consolidated statements of operations, stockholders' equity, and cash flows for the year then ended of the Company and our report, which includes an explanatory paragraph as to the Company's ability to continue as a going concern, dated March 31, 2017 expressed an unqualified opinion on those financial statements.

/s/ Marcum LLP

Marcum LLP  
New York, NY  
March 31, 2017



**ITEM 9B. OTHER INFORMATION.**

None.

**PART III**

**ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE.**

The information called for by this item is incorporated herein by reference to the definitive Proxy Statement for our 2017 Annual Meeting of Stockholders, which will be filed with the SEC pursuant to Regulation 14A under the Exchange Act.

**ITEM 11. EXECUTIVE COMPENSATION.**

The information called for by this item is incorporated herein by reference to the definitive Proxy Statement for our 2017 Annual Meeting of Stockholders, which will be filed with the SEC pursuant to Regulation 14A under the Exchange Act.

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS.**

The information called for by this item is incorporated herein by reference to the definitive Proxy Statement for our 2017 Annual Meeting of Stockholders, which will be filed with the SEC pursuant to Regulation 14A under the Exchange Act.

**ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE.**

The information called for by this item is incorporated herein by reference to the definitive Proxy Statement for our 2017 Annual Meeting of Stockholders, which will be filed with the SEC pursuant to Regulation 14A under the Exchange Act.

**ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES.**

The information called for by this item is incorporated herein by reference to the definitive Proxy Statement for our 2017 Annual Meeting of Stockholders, which will be filed with the SEC pursuant to Regulation 14A under the Exchange Act.

**PART IV**

**ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES.**

**Financial Statements**

All financial statements are set forth under Part II, Item 8 of this report.

**Financial Statement Schedules**

None

**Exhibits**

Exhibits required by Item 601 of Regulation S-K are incorporated herein by reference and are listed on the attached Exhibit Index, immediately following the signature page of this Annual Report on Form 10-K.

**ITEM 16. FORM 10-K SUMMARY.**

None.

## SIGNATURES

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

March 31, 2017

PROVACTUS BIOPHARMACEUTICALS, INC.

By: /s/ Timothy C. Scott, Ph.D.  
Timothy C. Scott, Ph.D.  
President (principal executive officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacity and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Timothy C. Scott, Ph.D.</u> Timothy C. Scott, Ph.D.	President and Director (principal executive officer)	March 31, 2017
<u>/s/ John R. Glass</u> John R. Glass	Interim Chief Financial Officer (principal financial officer and principal accounting officer)	March 31, 2017
<u>/s/ Jan E. Koe</u> Jan E. Koe	Director	March 31, 2017
<u>/s/ Kelly M. McMasters, M.D., Ph.D.</u> Kelly M. McMasters, M.D., Ph.D.	Director	March 31, 2017
<u>/s/ Alfred E. Smith, IV</u> Alfred E. Smith, IV	Director and Chairman of the Board	March 31, 2017
<u>/s/ Eric A. Wachter, Ph.D.</u> Eric A. Wachter, Ph.D.	Chief Technology Officer and Director	March 31, 2017

## EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>
3.1†	Certificate of Incorporation of Provectus Biopharmaceuticals, Inc., as amended.
3.2	Certificate of Designation for the Company's Series B Convertible Preferred Stock (incorporated by reference to Exhibit 3.1 of the Company's current report on Form 8-K filed with the SEC on August 25, 2016).
3.4	Bylaws of Provectus Biopharmaceuticals, Inc. (incorporated by reference to Exhibit 3.4 of the Company's annual report on Form 10-K filed with the SEC on March 13, 2014).
4.1	Specimen certificate for the Common Stock, par value \$0.001 per share, of the Company (incorporated by reference to Exhibit 4.1 of the Company's annual report on Form 10-KSB filed with the SEC on April 15, 2003).
4.2	Specimen certificate for the Common Stock, par value \$0.001 per share, of the Company (incorporated by reference to Exhibit 4.1 to the Company's registration statement on Form S-4, Commission File No. 333-208816, filed with the SEC on December 31, 2015).
4.3	Form of Series A Warrant issued to each of the purchasers identified on the signature pages of the Securities Purchase Agreement dated as of January 13, 2011 (incorporated by reference to Exhibit 4.1 of the Company's current report on Form 8-K filed with the SEC on January 13, 2011).
4.4	Form of Series B Warrant issued to each of the purchasers identified on the signature pages of the Securities Purchase Agreement dated as of January 13, 2011 (incorporated by reference to Exhibit 4.2 of the Company's current report on Form 8-K filed with the SEC on January 13, 2011).
4.5	Form of Series C Warrant issued to each of the purchasers identified on the signature pages of the Securities Purchase Agreement dated as of January 13, 2011 (incorporated by reference to Exhibit 4.3 of the Company's current report on Form 8-K filed with the SEC on January 13, 2011).
4.6	Form of Warrant issued to Lincoln Park Capital Fund, LLC (incorporated by reference to Exhibit 4.1 of the Company's current report on Form 8-K filed with the SEC on December 23, 2010).
4.7	Form of Warrant issued to investors in connection with the offering of the Company's 8% Convertible Preferred Stock (incorporated by reference to Exhibit 10.2 of the Company's current report on Form 8-K filed on March 12, 2010).
4.8	Form of Warrant issued to investors in connection with the offering of the Company's Series A 8% Convertible Preferred Stock (incorporated by reference to Exhibit 10.2 of the Company's current report on Form 8-K filed on February 28, 2013).
4.9	Form of Warrant Agency Agreement between Provectus Biopharmaceuticals, Inc. and Broadridge Corporate Issuer Solutions, Inc. (incorporated by reference to Exhibit 4.1 to the Company's current report on Form 8-K, filed with the SEC on June 19, 2015).
4.10	First Amendment to Warrant Agency Agreement between Provectus Biopharmaceuticals, Inc. and Broadridge Corporate Issuer Solutions, Inc. (incorporated by reference to Exhibit 4.3 to the Company's registration statement on Form S-4, Commission File No. 333-208816, filed with the SEC on December 31, 2015).
4.11	Second Amendment to Warrant Agency Agreement between Provectus Biopharmaceuticals, Inc. and Broadridge Corporate Issuer Solutions, Inc. (incorporated by reference to Exhibit 4.4 to the Company's registration statement on Form S-4, Commission File No. 333-211353, filed with the SEC on May 13, 2016).
4.12	Form of Warrant Certificate (incorporated by reference to Exhibit 4.2 to the Company's Current Report on Form 8-K, filed with the SEC on June 19, 2015).
4.13	Exchange and Escrow Agent Agreement between Provectus Biopharmaceuticals, Inc. and Broadridge Corporate Issuer Solutions, Inc. (incorporated by reference to Exhibit 4.5 to the Company's registration statement on Form S-4, Commission File No. 333-208816, filed with the SEC on December 31, 2015).
4.14	Exchange and Escrow Agent Agreement between Provectus Biopharmaceuticals, Inc. and Broadridge Corporate Issuer Solutions, Inc. (incorporated by reference to Exhibit 4.6 to the Company's registration statement on Form S-4, Commission File No. 333-211353, filed with the SEC on May 13, 2016).

- 4.15 Form of Warrant (incorporated by reference to Exhibit 4.1 of the Company's current report on Form 8-K filed on August 25, 2016).
- 10.1\* Provectus Pharmaceuticals, Inc. 2012 Stock Plan (incorporated herein by reference to Appendix A of the Company's definitive proxy statement filed on April 30, 2012).
- 10.2\* Confidentiality, Inventions and Non-competition Agreement dated as of November 26, 2002 between the Company and Timothy C. Scott (incorporated by reference to Exhibit 10.9 of the Company's annual report on Form 10-KSB filed on April 15, 2003).
- 10.3\* Confidentiality, Inventions and Non-competition Agreement dated as of November 26, 2002, between the Company and Eric A. Wachter (incorporated by reference to Exhibit 10.10 of the Company's annual report on Form 10-KSB filed on April 15, 2003).
- 10.4 Material Transfer Agreement dated as of July 31, 2003 between Schering-Plough Animal Health Corporation and the Company (incorporated by reference to Exhibit 10.15 of the Company's quarterly report on Form 10-QSB filed on August 14, 2003).
- 10.5 Securities Purchase Agreement dated as of January 13, 2011, by and between the Company and the purchasers identified on the signature pages thereto (incorporated by reference to Exhibit 10.1 of the Company's current report on Form 8-K filed on January 13, 2011).
- 10.6 Purchase Agreement dated as of December 22, 2010, by and between the Company and Lincoln Park Capital Fund, LLC (incorporated by reference to Exhibit 10.2 of the Company's current report on Form 8-K filed on December 23, 2010).
- 10.7 Registration Rights Agreement dated as of December 22, 2010, by and between the Company and Lincoln Park Capital Fund, LLC (incorporated by reference to Exhibit 10.2 of the Company's current report on Form 8-K filed on December 23, 2010).
- 10.8 Purchase Agreement dated as of July 22, 2013, by and between Provectus Pharmaceuticals, Inc. and Alpha Capital Anstalt (incorporated by reference to Exhibit 10.1 of the Company's current report on Form 8-K filed with the SEC on July 26, 2013).
- 10.9\* Amended and Restated Executive Employment Agreement by and between the Company and H. Craig Dees, Ph.D., dated April 28, 2014 (incorporated by reference to Exhibit 10.1 to the Company's current report on Form 8-K filed on April 30, 2014).
- 10.10\* Amended and Restated Executive Employment Agreement by and between the Company and Timothy C. Scott, Ph.D., dated April 28, 2014 (incorporated by reference to Exhibit 10.2 to the Company's Item current report on Form 8-K filed on April 30, 2014).
- 10.11\* Amended and Restated Executive Employment Agreement by and between the Company and Eric A. Wachter, Ph.D., dated April 28, 2014 (incorporated by reference to Exhibit 10.3 to the Company's current report on Form 8-K filed on April 30, 2014).
- 10.12\* Amended and Restated Executive Employment Agreement by and between the Company and Peter R. Culpepper, dated April 28, 2014 (incorporated by reference to Exhibit 10.4 to the Company's current report on Form 8-K filed on April 30, 2014).
- 10.13 Provectus Biopharmaceuticals, Inc. 2014 Equity Compensation Plan (incorporated herein by reference to Appendix A of the Company's definitive proxy statement filed on April 30, 2014).
- 10.14 Controlled Equity Offering<sup>SM</sup> Sales Agreement, dated April 30, 2014, by and between Provectus Biopharmaceuticals, Inc. and Cantor Fitzgerald & Co. (incorporated by reference to Exhibit 10.1 of the Company's current report on Form 8-K filed with the SEC on April 30, 2014).
- 10.15 Stipulated Settlement Agreement and Mutual Release, dated June 6, 2014, by and among the Company as nominal defendant, H. Craig Dees, Timothy C. Scott, Eric A. Wachter, Peter R. Culpepper, Stuart Fuchs, Kelly M. McMasters, and Alfred E. Smith, IV, as defendants, and Glenn Kleba and Don B. Dale, as plaintiffs (Exhibits Omitted) (incorporated by reference to Exhibit 10.6 of the Company's quarterly report on Form 10-Q filed on August 7, 2014).
- 10.16 Consent and Waiver of Rights, between Provectus Biopharmaceuticals, Inc. and Alpha Capital Anstalt (incorporated by reference to Exhibit 10.1 of the Company's current report on Form 8-K filed with the SEC on June 24, 2015).

- 10.17\* Independent Contractor Agreement between Provectus Biopharmaceuticals, Inc. and John R. Glass (incorporated by reference to Exhibit 10.1 of the Company's current report on Form 8-K filed with the SEC on April 22, 2016).
- 10.18†\* Amendment No. 1 to the Independent Contractor Agreement between Provectus Biopharmaceuticals, Inc. and John R. Glass.
- 10.19 Form of Securities Purchase Agreement between Provectus Biopharmaceuticals, Inc. and the purchasers named therein (incorporated by reference to Exhibit 10.1 of the Company's current report on Form 8-K filed with the SEC on August 25, 2016) (exhibits and schedules have been omitted, and the Company agrees to furnish supplementally to the Commission a copy of any omitted exhibits and schedules upon request).
- 10.20 Warrant Agency Agreement, dated August 30, 2016, by and between Provectus Biopharmaceuticals, Inc. and Broadridge Corporate Issuer Solutions, Inc. (incorporated by reference to Exhibit 10.1 of the Company's current report on Form 8-K filed with the SEC on August 30, 2016).
- 14 Code of Ethics (incorporated by reference to Exhibit 14 of the Company's annual report on Form 10-K filed on March 16, 2011).
- 21† Subsidiaries of the Company
- 23.1† Consent of Marcum LLP (Independent Registered Public Accounting Firm).
- 23.2† Consent of BDO USA, LLP.
- 31.1† Certification of CEO pursuant to Rules 13a-14(a) of the Securities Exchange Act of 1934.
- 31.2† Certification of CFO pursuant to Rules 13a-14(a) of the Securities Exchange Act of 1934.
- 32† Certification Pursuant to 18 U.S.C. Section 1350.
- 101 The following financial information from Provectus Biopharmaceuticals, Inc.'s Annual Report on Form 10-K for the period ended December 31, 2016, filed with the SEC on March 31, 2017, formatted in Extensible Business Reporting Language (XBRL): (i) the Consolidated Balance Sheet as of December 31, 2016 and December 31, 2015; (ii) the Consolidated Statements of Operations for the years ended December 31, 2016, 2015 and 2014; (iii) the Consolidated Statements of Equity for the years ended December 31, 2016, 2015 and 2014; (iv) the Consolidated Statements of Cash Flows for the years ended December 31, 2016, 2015 and 2014; and (v) Notes to Consolidated Financial Statements.

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† Filed herewith.

\* Indicates a management contract or compensatory plan or arrangement.

STATE of DELAWARE  
CERTIFICATE of INCORPORATION  
A STOCK CORPORATION

(As amended through November 28, 2016)

ARTICLE I  
NAME

The name of the Corporation is Provectus Biopharmaceuticals, Inc.

ARTICLE II  
REGISTERED AGENT

Its registered office in the State of Delaware is to be located at 160 Greentree Drive, Suite 101, in the City of Dover, County of Kent, Zip Code 19904.

The registered agent of this Corporation in the State of Delaware at such address is National Registered Agents, Inc.

ARTICLE III  
PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the Delaware General Corporation Law (“DGCL”).

ARTICLE IV  
CAPITALIZATION

The total number of shares which the Corporation shall have authority to issue is 1,025,000,000 shares of capital stock, of which 1,000,000,000 shares shall be designated Common Stock, \$0.001 par value per share (“Common Stock”), and 25,000,000 shall be designated Preferred Stock, \$0.001 par value per share (“Preferred Stock”).

1. *Common Stock.* All preferences, voting powers, relative, participating, optional or other special rights and privileges, and qualifications, limitations, or restrictions of the Common Stock are expressly made subject and subordinate to those that may be fixed with respect to any shares of the Preferred Stock. Except as otherwise required by law or this Certificate of Incorporation, each share of Common Stock shall entitle the holder thereof to one (1) vote, in person or by proxy, on each matter submitted to a vote of stockholders of the Corporation. Subject to the preferential rights of the Preferred Stock, the holders of shares of Common Stock shall be entitled to receive, when and if declared by the Board of Directors, out of the assets of the Corporation which are by law available therefor, dividends payable either in cash, in property or in shares of capital stock. In the event of any dissolution, liquidation or winding up of the affairs of the Corporation, after distribution in full of the preferential amounts, if any, to be distributed to the holders of shares of the Preferred Stock, holders of Common Stock shall be entitled, unless otherwise provided by law or this Certificate of Incorporation, to receive all of the remaining assets of the Corporation of whatever kind available for distribution to stockholders ratably in proportion to the number of shares of Common Stock held by them respectively.

2. *Preferred Stock.* The Preferred Stock may be issued from time to time in one or more series, as determined by the Board of Directors of the Corporation (the “Board of Directors”). The Board of Directors is

expressly authorized to provide for the issue, in one or more series, of all or any of the remaining shares of Preferred Stock and, in the resolution or resolutions providing for such issue, to establish for each such series the number of its shares, the voting powers, full or limited, of the shares of such series, or that such shares shall have no voting powers, and the designations, preferences and relative, participating, optional or other special rights of the shares of such series, and the qualifications, limitations or restrictions thereof. The Board of Directors is further expressly authorized to increase or decrease (but not below the number of shares of any such series then outstanding) the number of shares of any series, the number of which was fixed by it, subsequent to the issuance of shares of such series then outstanding, subject to the powers, preferences and rights, and the qualifications, limitations and restrictions thereof stated in the Certificate of Incorporation or the resolution of the Board of Directors originally fixing the number of shares of such series. If the number of shares of any series is so decreased, then the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

## ARTICLE V EXCULPATION AND INDEMNIFICATION

**A. Limitation of Liability.** A director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under the DGCL as it presently exists or may hereafter be amended. Any amendment, modification or repeal of the foregoing sentence shall not adversely affect any right arising prior to the time of such amendment, modification or repeal.

**B. Right of Indemnification.** The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (a "Covered Person") who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director, officer, employee or agent of the Corporation or, while a director, officer, employee or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Covered Person. Notwithstanding the preceding sentence, except as otherwise provided in section D of this Article V, the Corporation shall not be required to indemnify a Covered Person in connection with a Proceeding (or part thereof) commenced by such Covered Person unless the commencement of such Proceeding (or part thereof) by the Covered Person was authorized in the specific case by the Board of Directors.

**C. Prepayment of Expenses.** The Corporation shall to the fullest extent not prohibited by applicable law pay the expenses (including attorneys' fees) incurred by a Covered Person in defending any Proceeding in advance of its final disposition, provided, however, that, to the extent required by law, such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the Covered Person to repay all amounts advanced if it should be ultimately determined that the Covered Person is not entitled to be indemnified under this Article V or otherwise.

**D. Claims.** If a claim for indemnification (following the final disposition of the Proceeding with respect to which indemnification is sought, including any settlement of such Proceeding) or advancement of expenses under this Article V is not paid in full within thirty days after a written claim therefor by the Covered Person has been received by the Corporation, the Covered Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim to the fullest extent permitted by applicable law. In any such action the Corporation shall have the burden of proving that the Covered Person is not entitled to the requested indemnification or advancement of expenses under this Article V and applicable law.

**E. Non-Exclusivity of Rights.** The rights conferred on any Covered Person by this Article V shall not be exclusive of any other rights which such Covered Person may have or hereafter acquire under any statute, any other provision of this Certificate of Incorporation, the Bylaws of the Corporation, or any agreement, vote of stockholders or disinterested directors or otherwise.

**F. Insurance.** The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability under this Article V, the DGCL or otherwise.

**G. Amendment or Repeal.** Any right to indemnification or to advancement of expenses of any Covered Person arising hereunder shall not be eliminated or impaired by an amendment to or repeal of this Article V after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought.

**H. Other Indemnification and Advancement of Expenses.** This Article V shall not limit the right of the Corporation, to the extent and in the manner permitted by law, to indemnify and to advance expenses to persons other than Covered Persons when and as authorized by appropriate corporate action.

## **ARTICLE VI MANAGEMENT**

For the management of the business and for the conduct of the affairs of the Corporation, and in further definition, limitation and regulation of the powers of the Corporation, of its directors and of its stockholders or any class thereof, as the case may be, it is further provided that:

**A.** The management of the business and the conduct of the affairs of the Corporation is vested in its Board. The Board shall fix the number of directors that constitute the whole Board in the manner provided in the Bylaws, subject to any restrictions that may be set forth in this Certificate of Incorporation.

**B.** The Board of Directors is expressly empowered to adopt, amend or repeal the Bylaws of the Corporation. Any adoption, amendment or repeal of the Bylaws of the Corporation by the Board of Directors shall require the approval of a majority of the directors then in office. The stockholders shall also have power to adopt, amend or repeal the Bylaws of the Corporation; provided, however, that, in addition to any vote of the holders of any class or series of stock of the Corporation required by law or by the Certificate of Incorporation, the affirmative vote of the holders of at least sixty-six and two-thirds percent (66-2/3%) of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to adopt, amend or repeal any provision of the Bylaws of the Corporation.

## **ARTICLE VII STOCKHOLDER MEETINGS**

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide; provided, however, that any action required to be taken at any annual or special meeting of stockholders of the Corporation, or any action which may be taken at any annual or special meeting of such stockholders, may not be taken without a meeting. No action shall be taken by the stockholders by written consent.

## **ARTICLE VIII INCORPORATOR**

The name and mailing address of the incorporator is as follows:

Lori B. Metrock  
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC  
Baker Donelson Center, Suite 800  
211 Commerce Street  
Nashville, TN 37201



**AMENDMENT NO. 1 TO THE  
INDEPENDENT CONTRACTOR AGREEMENT**

THIS AMENDMENT NO. 1 to the Independent Contractor Agreement (the "Agreement") is effective as of December 3, 2016 and is by and between PROVECTUS BIOPHARMACEUTICALS, INC., a Delaware corporation (the "Company"), and JOHN R. GLASS, an Illinois citizen ("Contractor"). Collectively the Company and the Contractor shall be referred to herein as the "Parties."

WHEREAS, the Parties previously entered into that certain Independent Contractor Agreement, effective April 19, 2016 (the "Agreement"); and

WHEREAS, the Company and the Contractor wish to amend certain terms of the Agreement.

NOW THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, it is agreed:

1. Amendments.

(a) Section 1 (Services of Contractor) is hereby deleted in its entirety and insert in lieu thereof the following:

Contractor agrees to serve as interim Chief Financial Officer of the Company, performing such duties and services that are consistent with the position of Chief Financial Officer for a public company and as may be assigned from time to time by the Chief Executive Officer and/or the Company's Board of Directors ("Board"). During his consultancy hereunder, Consultant shall devote his best efforts, time and attention to the performance of the duties required or necessary in order to serve as the interim Chief Financial of the Company. Contractor will perform these services, for the most part, from the Company's headquarters at 7327 Oak Ridge Highway, Suite A, Knoxville, Tennessee. Contractor agrees that he will be generally available to provide services to the Company on a full-time basis for up to five (5) days per week, but Contractor may perform services, to the extent feasible, from Contractor's headquarters in Chicago, Illinois.

(b) Section 2 (Term) of the Agreement is hereby deleted in its entirety and insert in lieu thereof:

This Agreement shall remain in effect upon a month to month basis until either Party provides sixty (60) days prior written notice of such Party's intent to terminate the Agreement.

(c) Section 4 (Payment for Services) is hereby deleted in its entirety and insert in lieu thereof:

A. For services rendered under this Agreement, Contractor shall receive \$125 per hour. Invoices indicating payment and expenses owed shall be submitted to the Company bi-weekly. Payment shall be made to Contractor within seven (7) days following the Company's receipt of each such invoice, unless there is a bona fide dispute over the amount or other terms of an invoice, in which case the Company shall pay the undisputed amount only.

- B. So long as Contractor is serving as interim Chief Financial Officer on each date set forth below, Contractor will receive payments of \$20,000 cash on each of January 1, April 1, June 1, and September 1, 2017, or the first business day after that date if those dates fall on a weekend or Company holiday (the “Bonus Payments”).
- C. Notwithstanding subsection (B) above, following the termination of this Agreement by the Company as a result of the hiring of an additional permanent Chief Financial Officer and in the event Contractor does not receive all Bonus Payments, Contractor shall nevertheless be entitled to a payment of \$20,000 (the “Severance Amount”), the Severance Amount to be paid after the expiration of three (3) months after termination of the Agreement. In order to be entitled to the Severance Amount, Contractor must agree, upon the receipt of reasonable notice from the Company (including from the Company’s outside counsel), to provide assistance and cooperation to the Company in the operation of Company’s business in regards to financial statements, contracts, public filings, and the like, as may be reasonably requested from time to time. By way of example, assistance and cooperation may include (a) being available for brief telephone conferences with outside counsel and/or Company personnel, (b) reviewing documents or other data, (c) providing information about past practices, agreements, and other similar arrangements.

2. Reaffirmation. Other than as set forth in this Amendment, the Agreement remains in full force and effect. This Amendment contains the entire agreement of the Parties with respect to the subject matter hereof and supersedes any and all prior agreements or understandings between the Parties, written or oral, respecting the subject matter hereof. If there is any conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement, the terms and provisions of this Amendment shall govern.

3. Governing Law. This Amendment will be governed by and construed under the laws of the State of Tennessee without regard to any conflicts of laws principles that would require the application of any other law.

*[Signatures contained on the following page.]*

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective on the 3rd day of December, 2016.

JOHN R. GLASS

/s/ John R. Glass

Contractor

PROVECTUS BIOPHARMACEUTICALS, INC.

/s/ Timothy C. Scott

By: Timothy C. Scott

Title: President

**SUBSIDIARIES OF PROVECTUS BIOPHARMACEUTICALS, INC.**

<u>Subsidiary</u>	<u>Jurisdiction of Incorporation</u>
Xantech Pharmaceuticals, Inc.	Tennessee
Pure-ific Corporation	Nevada
Provectus Biotech, Inc.	Tennessee
Provectus Devicetech, Inc.	Tennessee
Provectus Imaging, Inc.	Tennessee
IP Tech, Inc.	Tennessee
Provectus Pharmatech, Inc.	Tennessee
Provectus Biopharmaceuticals Australia PTY LTD	New South Wales, Australia

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in the Registration Statement of Provectus Biopharmaceuticals, Inc. (the "Company") on Form S-3 (File No. 333-205704) of our report, which includes an explanatory paragraph as to the Company's ability to continue as a going concern, dated March 31, 2017, with respect to our audit of the consolidated financial statements of Provectus Biopharmaceuticals, Inc. as of December 31, 2016 and for the year then ended and our report dated March 31, 2017 with respect to our audit of the effectiveness of internal control over financial reporting of Provectus Biopharmaceuticals, Inc. as of December 31, 2016, which reports are included in this Annual Report on Form 10-K of Provectus Biopharmaceuticals, Inc. for the year ended December 31, 2016.

Our report on the effectiveness of internal control over financial reporting expressed an adverse opinion because of the existence of material weaknesses.

/s/ Marcum LLP

Marcum LLP  
New York, NY  
March 31, 2017

Consent of Independent Registered Public Accounting Firm

Provectus Biopharmaceuticals, Inc.  
Knoxville, Tennessee

We hereby consent to the incorporation by reference in the Registration Statement on Form S-3 (No. 333-205704) of Provectus Biopharmaceuticals, Inc. of our report dated March 30, 2016 relating to the 2015 and 2014 consolidated financial statements, which appear in this Form 10-K.

/s/ BDO USA, LLP

Chicago, Illinois  
March 31, 2017

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER  
PURSUANT TO RULE 13a-14(a) UNDER  
THE SECURITIES EXCHANGE ACT OF 1934**

I, Timothy C. Scott, Ph.D., certify that:

1. I have reviewed this Annual Report on Form 10-K for the fiscal year ended December 31, 2016 of Provectus Biopharmaceuticals, 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 statement 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(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

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

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

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

Date: March 31, 2017

By: /s/ Timothy C. Scott, Ph.D.  
Timothy C. Scott, Ph.D.  
President (principal executive officer)

**CERTIFICATION OF CHIEF FINANCIAL OFFICER  
PURSUANT TO RULE 13a-14(a) UNDER  
THE SECURITIES EXCHANGE ACT OF 1934**

I, John R. Glass, certify that:

1. I have reviewed this Annual Report on Form 10-K for the fiscal year ended December 31, 2016 of Provectus Biopharmaceuticals, 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 statement 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(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

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

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

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

Date: March 31, 2017

By: /s/ John R. Glass  
John R. Glass  
Interim Chief Financial Officer (principal financial officer)



**CERTIFICATION OF CHIEF EXECUTIVE OFFICER AND  
CHIEF FINANCIAL OFFICER PURSUANT TO RULE 13a-14(b) UNDER  
THE SECURITIES EXCHANGE ACT OF 1934 AND SECTION 1350 OF  
CHAPTER 63 OF TITLE 18 OF THE UNITED STATES CODE**

Each of the undersigned, Timothy C. Scott, Ph.D. and John R. Glass, certifies, pursuant to Rule 13a-14(b) under the Securities Exchange Act of 1934 (the “Exchange Act”) and Section 1350 of Chapter 63 of Title 18 of the United States Code, that (1) this Annual Report on Form 10-K for the year ended December 31, 2016 of Provectus Biopharmaceuticals, Inc. (the “Company”) fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act, and (2) the information contained in this report fairly presents, in all material respects, the financial condition and results of operations of the Company.

This Certification is signed on March 31, 2017.

/s/ Timothy C. Scott, Ph.D.

Timothy C. Scott, Ph.D.

President (principal executive officer)

/s/ John R. Glass

John R. Glass

Interim Chief Financial Officer (principal financial officer)

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