U.S. SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-QSB

(Mark One)

|X| Quarterly report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the quarterly period ended September 30, 2001

|_| Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

for the transition period from _____ to _____.

Commission file number 0-27282

ATLANTIC TECHNOLOGY VENTURES, INC.
(Exact name of small business issuer as specified in its charter)

| Delaware | 36-3898269 |
|---|---|
| (State or other jurisdiction of incorporation or organization) | (I.R.S. Employer Identification No.) |

350 Fifth Avenue, Suite 5507, New York, New York 10118
(Address of principal executive offices)

(212) 267-2503
(Issuer's telephone number)

150 Broadway, Suite 1110, New York, New York 10038
(Former name, former address and former fiscal year, if changed since last report)

Check whether the issuer: (1) filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the past 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes |X| No |_|

Number of shares of common stock outstanding as of November 14, 2001: 7,201,480

Transitional Small Business Disclosure Format (check one): Yes |_| No |X|

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PART I -- FINANCIAL INFORMATION

Item 1. Financial Statements

ATLANTIC TECHNOLOGY VENTURES, INC. AND SUBSIDIARIES
(A Development Stage Company)

Consolidated Balance Sheets
(Unaudited)

| Assets | September 30, 2001 | December 31, 2000 |
|---|---|---|
| Current assets: | | |
| Cash and cash equivalents | $ 440,558 | 2,663,583 |
| Accounts receivable | -- | 192,997 |
| Prepaid expenses | 27,194 | 22,599 |
| Total current assets | 467,752 | 2,879,179 |
| Property and equipment, net | 116,364 | 227,088 |
| Investment in affiliate | 8,351 | 67,344 |
| Other assets | 22,838 | 2,901 |
| Total assets | $ 615,305 | 3,176,512 |
| Liabilities and Stockholders' Equity (Deficit) | | |
| Current liabilities: | | |
| Accounts payable and accrued expenses | $ 748,359 | 785,838 |
| Deferred revenue | -- | 1,294,615 |
| Total current liabilities | $ 748,359 | 2,080,453 |
| Redeemable Series B convertible preferred stock Authorized 1,647,312 shares; 0 and 206,898 shares issued and outstanding at September 30, 2001 and December 31, 2000 respectively | -- | 600,000 |
| Stockholders' equity (deficit): | | |
| Preferred stock, $.001 par value. Authorized 10,000,000 shares; 1,375,000 shares designated as Series A convertible preferred stock | -- | -- |
| Series A convertible preferred stock, $.001 par value Authorized 1,375,000 shares; 350,606 and 359,711 shares issued and outstanding at September 30, 2001 and December 31, 2000, respectively (liquidation preference aggregating $4,557,878 and $4,676,243 at September 30, 2001 and December 31, 2000, respectively) | 351 | 360 |
| Convertible preferred stock warrants, 112,896 issued and outstanding at September 30, 2001 and December 31, 2000 | 520,263 | 520,263 |
| Common stock, $.001 par value. Authorized 50,000,000 shares; 7,201,480 and 6,122,135 shares issued and outstanding at September 30, 2001 and December 31, 2000, respectively | 7,201 | 6,122 |
| Common stock subscribed. 182 shares at September 30, 2001 and December, 31, 2000 | -- | -- |
| Additional paid-in capital | 25,502,927 | 24,796,190 |
| Deficit accumulated during development stage | (26,163,254) | (24,826,334) |
| | (132,512) | 496,601 |
| Less common stock subscriptions receivable | (218) | (218) |
| Less treasury stock, at cost | (324) | (324) |
| Total stockholders' equity (deficit) | (133,054) | 496,059 |
| Total liabilities and stockholders' equity (deficit) | $ 615,305 | 3,176,512 |

See accompanying notes to unaudited consolidated financial statements.

ATLANTIC TECHNOLOGY VENTURES, INC. AND SUBSIDIARIES
(A Development Stage Company)
Consolidated Statements of Operations
(Unaudited)

| | Three months ended September 30, | | Nine months ended September 30, | | Cumulative period from July 13, 1993 (inception) to September 30, |
|---|---|---|---|---|---|
| | 2001 | 2000 | 2001 | 2000 | 2001 |
| Revenues: | | | | | |
| Development revenue | $ -- | $ 1,072,716 | $ 2,461,922 | $ 3,419,831 | $ 8,713,720 |
| License revenue | -- | -- | -- | -- | 2,500,000 |
| Grant revenue | -- | -- | 250,000 | 13,009 | 616,659 |
| Total revenues | -- | 1,072,716 | 2,711,922 | 3,432,840 | 11,830,379 |
| Costs and expenses: | | | | | |
| Cost of development revenue | -- | 858,173 | 2,082,568 | 2,735,865 | 7,084,006 |
| Research and development | 172,257 | 424,829 | 774,340 | 854,297 | 10,279,250 |
| Acquired in-process research and development | -- | 263,359 | -- | 2,653,382 | 2,653,382 |
| General and administrative | 496,294 | 477,949 | 2,333,567 | 1,595,463 | 18,236,793 |
| Compensation expense relating to stock warrants, net (general and administrative) | 35,968 | 11,857 | 70,634 | 1,073,511 | 1,091,499 |
| License fees | -- | -- | -- | -- | 173,500 |
| Total operating expenses | 704,519 | 2,036,167 | 5,261,109 | 8,912,518 | 39,518,430 |
| Operating loss | (704,519) | (963,451) | (2,549,187) | (5,479,678) | (27,688,051) |
| Other (income) expense: | | | | | |
| Interest and other income | (6,266) | (22,940) | (40,618) | (97,267) | (1,291,754) |
| Gain on sale of Optex assets | -- | -- | (2,569,451) | -- | (2,569,451) |
| Loss on sale of Gemini assets | -- | -- | 334,408 | -- | 334,408 |
| Interest expense | -- | -- | -- | -- | 625,575 |
| Equity in (earnings) loss of affiliate | 37,309 | 31,915 | 58,993 | 55,615 | 138,267 |
| Distribution to minority shareholders | -- | -- | 837,274 | -- | 837,274 |
| Total other (income) expense | 31,043 | 8,975 | (1,379,394) | (41,652) | (1,925,681) |
| Net loss | $ (735,562) | $ (972,426) | $(1,169,793) | $(5,438,026) | $(25,762,370) |
| Imputed convertible preferred stock dividend | -- | -- | 600,000 | -- | 5,931,555 |
| Dividend paid upon repurchase of Series B | -- | -- | 167,127 | -- | 400,884 |
| Preferred stock dividend issued in preferred shares | 43,305 | 152,195 | 107,449 | 811,514 | 1,390,512 |
| Net loss applicable to common shares | $ (778,867) | $(1,124,621) | $(2,044,369) | $(6,249,540) | $(33,485,321) |
| Net loss per common share: | | | | | |
| Basic and diluted | $ (0.11) | $ (0.19) | $ (0.30) | $ (1.14) | |
| Weighted average shares of common stock outstanding, basic and diluted: | 7,166,090 | 6,033,257 | 6,734,788 | 5,504,144 | |

See accompanying notes to unaudited consolidated financial statements.

ATLANTIC TECHNOLOGY VENTURES, INC. AND SUBSIDIARIES
(A Development Stage Company)
Consolidated Statements of Cash Flows
(Unaudited)

| | Nine months ended September 30, | | Cumulative period from July 13, 1993 (inception) to September 30, |
|---|---|---|---|
| | 2001 | 2000 | 2001 |
| Cash flows from operating activities: | | | |
| Net loss | (1,169,793) | (5,438,026) | (25,762,370) |
| Adjustments to reconcile net loss to net cash used in operating activities: | | | |
| Acquired in-process research and development | -- | 1,800,000 | 1,800,000 |
| Expense relating to issuance of common stock and warrants | 488,100 | -- | 786,302 |
| Expense relating to the issuance of options | -- | -- | 81,952 |
| Expense related to Channel merger | -- | -- | 657,900 |
| Change in equity of affiliate | 58,993 | 55,615 | 138,267 |
| Compensation expense relating to stock options and warrants | 70,634 | 1,073,511 | 1,299,544 |
| Discount on notes payable - bridge financing | -- | -- | 300,000 |
| Depreciation | 55,015 | 51,529 | 561,520 |
| Gain on sale of Optex assets | (2,569,451) | -- | (2,569,451) |
| Distribution to Optex minority shareholders | 837,274 | -- | 837,274 |
| Loss on sale of Gemini assets | 334,408 | -- | 334,408 |
| Loss on disposal of furniture and equipment | -- | -- | 73,387 |
| Changes in assets and liabilities: | | | |
| (Increase) decrease in accounts receivable | 192,997 | (700,188) | -- |
| Increase in prepaid expenses | (4,595) | (20,185) | (27,194) |
| Decrease in deferred revenue | (1,294,615) | -- | -- |
| Increase (decrease) in accrued expenses | (664,637) | 519,025 | 121,201 |
| Increase (decrease) in accrued interest | -- | -- | 172,305 |
| Increase in other assets | (19,937) | (2,901) | (22,838) |
| Net cash used in operating activities | (3,685,607) | (2,661,620) | (21,217,793) |
| Cash flows from investing activities: | | | |
| Purchase of furniture and equipment | (108,250) | (137,869) | (921,331) |
| Investment in affiliate | -- | (146,618) | (146,618) |
| Proceeds from sale of Optex assets | 3,000,000 | -- | 3,000,000 |
| Proceeds from sale of furniture and equipment | -- | -- | 6,100 |
| Net cash provided by (used in) investing activities | 2,891,750 | (284,487) | 1,938,151 |
| Cash flows from financing activities: | | | |
| Proceeds from exercise of warrants | -- | -- | 5,500 |
| Proceeds from exercise of stock options | -- | 344,597 | 397,098 |
| Proceeds from issuance of demand notes payable | -- | -- | 2,395,000 |
| Repayment of demand notes payable | -- | -- | (125,000) |
| Proceeds from the issuance of notes payable - bridge financing | -- | -- | 1,200,000 |
| Proceeds from issuance of warrants | -- | -- | 300,000 |
| Repayment of notes payable - bridge financing | -- | -- | (1,500,000) |
| Repurchase of common stock | -- | -- | (324) |
| Preferred stock dividend paid | (987) | -- | (1,305) |
| Proceeds from the issuance of common stock | -- | -- | 7,547,548 |
| Proceeds from issuance of convertible preferred stock | -- | 828,489 | 11,441,672 |
| Repurchase of convertible preferred stock | (617,067) | -- | (1,128,875) |
| Distribution to Optex minority shareholders | (811,114) | -- | (811,114) |
| Net cash provided (used in) by financing activities | (1,429,168) | 1,173,086 | 19,720,200 |
| Net decrease in cash and cash equivalents | (2,223,025) | (1,773,021) | 440,558 |
| Cash and cash equivalents at beginning of period | 2,663,583 | 3,473,321 | -- |
| Cash and cash equivalents at end of period | 440,558 | 1,700,300 | 440,558 |
| Supplemental disclosure of noncash financing activities: | | | |
| Issuance of common stock in exchange for common stock subscriptions | -- | -- | 7,027 |
| Conversion of demand notes payable and the related accrued interest to common stock | -- | -- | 2,442,304 |
| Cashless exercise of preferred warrants | -- | 19,811 | 49,880 |
| Conversion of preferred to common stock | 409 | 289 | 2,835 |
| Preferred stock dividend issued in shares | 107,449 | 811,514 | 1,233,329 |

See accompanying notes to unaudited consolidated financial statements.

ATLANTIC TECHNOLOGY VENTURES, INC. and SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)
September 30, 2001

(1) BASIS OF PRESENTATION

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America for interim financial information. Accordingly, the financial statements do not include all information and footnotes required by accounting principles generally accepted in the United States of America for complete annual financial statements. In the opinion of management, the accompanying financial statements reflect all adjustments, consisting of only normal recurring adjustments, considered necessary for fair presentation. Interim operating results are not necessarily indicative of results that may be expected for the year ending December 31, 2001 or for any subsequent period. These consolidated financial statements should be read in conjunction with Atlantic Technology Ventures, Inc., and Subsidiaries' ("Atlantic") Annual Report on Form 10-KSB/A as of and for the year ended December 31, 2000.

(2) LIQUIDITY

On November 6, 2001, Atlantic entered into an agreement with Joseph Stevens & Company, Inc. in which Joseph Stevens agreed to act as placement agent for a private placement of shares of Atlantic common stock. In that private placement, the proposed purchase price of each share of Atlantic common stock will be $0.24 and the minimum and maximum aggregate subscription amounts will be $2,000,000 and $3,000,000, respectively. In addition, each investor will receive a warrant to purchase one share of Atlantic common stock for every share of Atlantic common stock purchased by that investor. The warrants will have an exercise price of $0.29 and will be exercisable for five years from the closing date. In connection with the offering, Atlantic will pay to Joseph Stevens a placement fee equal to 7% of the aggregate subscription amount plus 10% of the number of shares and warrants issued to the investors. Joseph Stevens has informed Atlantic that as of the end of November 19, 2001, investors had placed in escrow over $1,000,000 towards the aggregate subscription price of this private placement, and Atlantic expects that by November 30, 2001, it will have received commitments for at least the minimum aggregate subscription amount and will be able to close this financing. There can, however, be no assurances that the closing will take place by then, or at all.

Atlantic anticipates that their liquid resources, before any proceeds from the proposed private placement, will be sufficient to finance their anticipated needs for operating and capital expenditures at their current level of operations for at least the next several weeks. Atlantic will attempt to generate additional capital through a combination of collaborative agreements, strategic alliances and equity and debt financing, and Atlantic anticipates that the proceeds it expects to receive from the private placement conducted through Joseph Stevens & Company, Inc. would be sufficient to finance its anticipated needs for operating and capital expenditures at their current level of operations for at least the next year. However, Atlantic can give no assurance that they will receive any proceeds from the proposed private placement or obtain funds through other sources on terms acceptable to them.

On May 7, 2001, Atlantic entered into a common stock purchase agreement with Fusion Capital Fund II, LLC pursuant to which Fusion Capital agreed to purchase up to $6.0 million of our common stock. This agreement replaced an earlier common stock purchase agreement between Atlantic and Fusion Capital dated March 16, 2001. Fusion's obligation to purchase Atlantic shares is subject to certain conditions, including the effectiveness of a registration statement covering the shares to be purchased. That registration statement was declared effective on July 6, 2001. A material contingency that may affect Atlantic's operating plans and ability to raise funds under this agreement is its stock price. Currently, Atlantic's stock price is below the floor price of $0.68 specified in the Fusion Capital agreement and as a result Atlantic is currently unable to draw funds pursuant to the Fusion Capital agreement. As the Fusion Capital agreement is currently structured, Atlantic cannot guarantee that it will be able to draw any funds. To date, Atlantic has not drawn funds pursuant to this agreement. See note 11 below and see the liquidity discussion within "Management's Discussion and Analysis of Financial Condition and Results of Operations."

Subsequent to an oral hearing before a Nasdaq Listing Qualifications Panel, on August 23, 2001, Atlantic's securities were delisted from the Nasdaq Stock Market for failing to meet the minimum bid price requirements set forth in the NASD Marketplace Rules, as Atlantic's common stock had traded for less than $1.00 for more than 30

consecutive business days. Atlantic's common stock now trades on the OTC Bulletin Board under the symbol "ATLC.OB". Delisting of Atlantic's common stock from Nasdaq could have a material adverse effect on its ability to raise additional capital, its stockholders' liquidity and the price of its common stock.

(3) COMPUTATION OF NET LOSS PER COMMON SHARE

Basic net loss per common share is calculated by dividing net loss applicable to common shares by the weighted-average number of common shares outstanding for the period. Diluted net loss per common share is the same as basic net loss per common share, as common equivalent shares from stock options, stock warrants, stock subscriptions, and convertible preferred stock would have an antidilutive effect because Atlantic incurred a net loss during each period presented.

(4) RECENTLY ISSUED ACCOUNTING STANDARDS

On January 1, 2001, Atlantic adopted the provisions of Statement of Financial Accounting Standards (SFAS) No. 138, "Accounting for Certain Derivative Instruments and Certain Hedging Activities--an amendment of SFAS No. 133" and SFAS No. 133, "Accounting for Certain Derivative Instruments and Certain Hedging Activities." SFAS No. 138 amends the accounting and reporting standards of SFAS No. 133 for certain derivative instruments and certain hedging activities. SFAS No. 133 requires a company to recognize all derivative instruments as assets and liabilities in its balance sheet and measure them at fair value. The adoption of these statements did not have a material impact on Atlantic's consolidated financial position, results of operations or cash flows, as Atlantic is currently not party to any derivative instruments.

In July 2001, the FASB issued SFAS No. 141, "Business Combinations," and SFAS No. 142, "Goodwill and Other Intangible Assets." SFAS No. 141 requires that all business combinations be accounted for under a single method--the purchase method. Use of the pooling-of-interests method is no longer permitted. SFAS No. 141 requires that the purchase method be used for business combinations initiated after June 30, 2001. SFAS No. 142 requires that goodwill no longer be amortized to earnings, but instead be reviewed for impairment. The amortization of goodwill ceases upon adoption of the Statement, which for calendar year-end companies, will be January 1, 2002. SFAS No. 142 has no financial impact on Atlantic since Atlantic does not have any goodwill or intangible assets which resulted from any previous business combinations.

(5) INCOME TAXES

Atlantic incurred a net loss for the three and nine months ended September 30, 2001. In addition, Atlantic does not expect to generated book income for the year ended December 31, 2001; therefore, no income taxes have been reflected for the three and nine months ended September 30, 2001.

(6) PREFERRED STOCK DIVIDEND

On January 16, 2001 and August 7, 2001, Atlantic's board of directors declared payment-in-kind dividends of 0.065 of a share of Series A convertible preferred stock for each share of Series A convertible preferred stock held as of the record dates of February 7, 2001 and August 7, 2001 respectively. The estimated fair value of these dividends in the aggregate of $43,305 and $107,449 were included in Atlantic's calculation of net loss per common share for the three-and nine-month periods ended September 30, 2001, respectively. The equivalent dividends for the three-and nine-month periods ended September 30, 2000 had an estimated fair value of $152,195 and $811,514, respectively and are recorded in the same manner.

(7) ISSUANCE OF STOCK WARRANTS

As more fully described in Note 9 to Atlantic's Annual Report on Form 10-KSB/A as of and for the year ended December 31, 2000, on January 4, 2000, Atlantic entered into a financial advisory and consulting agreement with Joseph Stevens & Company, Inc. pursuant to which Atlantic issued to Joseph Stevens & Company, Inc. three warrants to purchase an aggregate of 450,000 shares of its common stock. Atlantic recorded compensation expense relating to these stock warrants in the amounts of $11,857 and $1,073,511 for the three-and nine-month periods

ended September 30, 2000, respectively. No such compensation expense exists subsequent to December 31, 2000 as the warrants are fully vested. These warrants were still outstanding as of September 30, 2001.

On March 8, 2001, Atlantic entered into an agreement with The Investor Relations Group, Inc. ("IRG") under which IRG will provide Atlantic investor relations services. Pursuant to this agreement, Atlantic issued to Dian Griesel, the principal of IRG, warrants to purchase 120,000 shares of its common stock at an exercise price of $0.875 per share. These warrants will vest monthly in 5,000 share increments over a 24-month period. In addition, should Atlantic's stock price reach $2.50, Atlantic will grant Dian Griesel warrants to purchase an additional 50,000 shares of its common stock, and should Atlantic's stock price reach $5.00, Atlantic will grant Dian Griesel warrants to purchase a further 50,000 shares of its common stock. As a result, Atlantic recorded compensation expense relating to the issuance of the stock warrants to purchase 120,000 shares of $38,200 for the nine-month period ended September 30, 2001 pursuant to EITF Issue No. 96-18. As a result of a decline in Atlantic's common stock price during the three months ended September 30, 2001, the cumulative expense associated with these warrants was reduced. The depreciation in the estimated fair value of the warrants previously recorded and the current quarter expense resulted in a net reversal of compensation expense of $9,387 which is recorded during the three months ended September 30, 2001. Atlantic will remeasure the compensation expense at the end of each reporting period until the final measurement date is reached 24 months after issuance. These warrants are outstanding as of September 30, 2001.

On August 9, 2001, Atlantic entered into an agreement with Proteus Capital Corp. ("Proteus") in which Proteus agreed to assist Atlantic with raising additional funds. Pursuant to this agreement, Atlantic granted Proteus warrants to purchase 100,000 shares of its common stock at $0.59 per share, which was the average closing stock price for the two weeks ending August 17, 2001. The warrants were fully vested on the date of the agreement and were outstanding at September 30, 2001. The term of the warrants is five years. Atlantic recorded compensation expense relating to these stock warrants of $45,355 for the three and nine months ended September 30, 2001, pursuant to EITF Issue No. 96-18.

Compensation for these warrants relates to fundraising and investor relations services and represents a general and administrative expense.

(8) REDEEMABLE SERIES B PREFERRED SHARES

On September 28, 2000, pursuant to a convertible preferred stock and warrants purchase agreement (the "Purchase Agreement") Atlantic issued to BH Capital Investments, L.P. and Excalibur Limited Partnership (together, the "Investors") for a purchase price of $2,000,000, 689,656 shares of Atlantic's Series B convertible preferred stock and warrants to purchase 134,000 shares of Atlantic's common stock. Half of the shares of the Series B preferred stock (344,828 shares) and warrants to purchase half of the shares of common stock (67,000 shares) were held in escrow, along with half of the purchase price.

On December 4, 2000, Atlantic and the Investors entered into a stock repurchase agreement (the "Repurchase Agreement") pursuant to which Atlantic repurchased from the investors a portion of the outstanding shares.

Pursuant to Atlantic's subsequent renegotiations with the Investors, Atlantic was required, among other things, to redeem on March 28, 2002, all outstanding shares of Series B preferred stock for (A) 125% of the original issue price per share or (B) the market price of the shares of common stock into which they are convertible, whichever is greater (the "Redemption Price"). Atlantic would have been able to at any time redeem all outstanding shares of Series B preferred stock at the Redemption Price. As a result of the renegotiations discussed in this paragraph, the Series B preferred stock was considered redeemable and the remaining outstanding shares at December 31, 2000 were classified outside of permanent equity in the accompanying consolidated balance sheet. At December 31, 2000, of the shares of Series B preferred stock issued to the Investors, there were 206,898 shares outstanding at a carrying amount of $2.90 per share.

Holders of shares of Atlantic's outstanding Series B preferred stock could convert each share into shares of common stock without paying Atlantic any cash. The conversion price per share of the Series B preferred stock was also amended by the second amendment to the Purchase Agreement. The conversion price per share of Series B

preferred stock on any given day is the lower of (1) $1.00 or (2) 90% of the average of the two lowest closing bid prices on the principal market of the common stock out of the fifteen trading days immediately prior to conversion. The change in conversion price upon the renegotiations on January 9, 2001 resulted in a difference between the conversion price of the Series B preferred stock and the market price of the common stock on the effective date of the renegotiation. This amount, estimated at $600,000, was recorded as an imputed preferred stock dividend within equity and is deducted from net loss to arrive at net loss applicable to common shares during the nine months ended September 30, 2001.

On January 19, 2001, 41,380 shares of Series B preferred stock were converted by the Investors into 236,422 shares of Atlantic's common stock. On March 9, 2001, Atlantic and the Investors entered into a second stock repurchase agreement pursuant to which Atlantic repurchased from the Investors, for an aggregate purchase price of $617,067, all 165,518 shares of Atlantic's Series B preferred stock held by the Investors on March 9, 2001. The carrying amount of the 165,518 shares is equal to $480,000; therefore the amount in excess of the carrying amount, which equals $167,127, was recorded as a dividend upon repurchase of shares of Series B preferred stock and is deducted from net loss to arrive at net loss applicable to common shares.

(9) DEVELOPMENT REVENUE

In accordance with an amended license and development agreement, which was subsequently terminated as described below in note 10, Bausch & Lomb Surgical reimbursed Atlantic's subsidiary, Optex Ophthalmologics, Inc. ("Optex"), for costs Optex incurred in developing its Catarex technology, plus a profit component. For the nine months ended September 30, 2001, this agreement provided $2,461,922 of development revenue, and related cost of development revenue of $2,082,568. This agreement provided $1,072,716 and $3,419,831 of development revenue, and related cost of development revenue of $858,173 and $2,735,865 for the three-and nine-month periods ended September 30, 2000 respectively. The agreement was terminated in March 2001 (see note 10 below). Accordingly, there was no development revenue or related expense for the three-month period ended September 30, 2001.

(10) SALE OF OPTEX ASSETS

Pursuant to an asset purchase agreement dated January 31, 2001, among Bausch & Lomb, a Bausch & Lomb affiliate, Atlantic, and Optex, on March 2, 2001, Optex sold to Bausch & Lomb substantially all of its assets (mostly intangible assets with no book value), including all those related to the Catarex technology. The purchase price was $3 million paid at closing (of which approximately $564,000 has been distributed to Optex's minority shareholders). In addition, Optex is entitled to receive additional consideration, namely $1 million once Bausch & Lomb receives regulatory approval to market the Catarex device in Japan, royalties on net sales on the terms stated in the original development agreement dated May 14, 1998, between Bausch & Lomb and Optex, as amended, and minimum royalties of $90,000, $350,000, and $750,000 for the first, second, and third years, respectively, starting on first commercial use of the Catarex device or January 1, 2004, whichever is earlier. Optex also has the option to repurchase the acquired assets from Bausch & Lomb at fair value if it ceases developing the Catarex technology.

Upon the sale of Optex assets, Bausch & Lomb's development agreement with Optex was terminated and Optex has no further involvement with Bausch & Lomb. As a result of this transaction, Atlantic recorded a net gain on the sale of Optex assets of $2,569,451 for the nine-month period ended September 30, 2001, net of severance payments to former Optex employees in the amount of $240,000 as described below. The purchase price of $3,000,000 is nonrefundable and upon the closing of the asset purchase agreement in March 2001, Optex had no further obligation to Bausch & Lomb or with regard to the assets sold. In the asset purchase agreement, Optex agreed to forgo future contingent payments provided for in the earlier development agreement. Pursuant to Atlantic's agreement with the minority shareholders of Optex, Optex has recorded a profit distribution for the nine months ended September 30, 2001 of $837,274 representing the minority shareholders' percentage of the cumulative profit from the Bausch & Lomb development and asset purchase agreements up to and including proceeds from the sale of Optex' assets.

On May 9, 2001, Atlantic's board of directors, after consideration of all the relevant facts and circumstances, including recommendation of counsel, agreed to authorize an aggregate payment of $240,000 to three former employees of Optex (who are now employed by Bausch & Lomb). The payments were made on May 11, 2001, and represented the settlement of claims made by the employees subsequent to the asset purchase agreement referred to above for severance monies allegedly due under their employment agreement. Atlantic did

not believe these monies were due pursuant to the terms of the transaction itself and the respective employment agreements. The board of directors elected to acquiesce to the demands of the former employees and resolve the matter in light of the potential future royalties from Bausch & Lomb and the importance of these individuals to the ongoing development activities. The payment was recorded as an expense netted against the gain on sale of Optex assets in the September 30, 2001 consolidated statement of operations.

(11) PRIVATE PLACEMENT OF COMMON SHARES

On May 7, 2001, Atlantic entered into a common stock purchase agreement with Fusion Capital Fund II, LLC, pursuant to which Fusion Capital agreed to purchase up to $6.0 million of Atlantic's common stock over a 30-month period, subject to a six-month extension or earlier termination at Atlantic's discretion. This agreement replaced an earlier common stock purchase agreement between Atlantic and Fusion Capital dated March 16, 2001. Fusion's obligation to purchase Atlantic shares is subject to certain conditions, including the effectiveness of a registration statement covering the shares to be purchased. That registration statement was declared effective on July 6, 2001. The selling price of the shares will be equal to the lesser of (1) $20.00 or (2) a price based upon the future market price of the common stock, without any fixed discount to the market price. A material contingency that may affect Atlantic's operating plans and ability to raise funds under this agreement is its stock price. Currently, Atlantic's stock price is below the floor price of $0.68 specified in the Fusion Capital agreement and as a result Atlantic is currently unable to draw funds pursuant to the Fusion Capital agreement. As the Fusion Capital agreement is currently structured, Atlantic cannot guarantee that it will be able to draw any funds. To date, Atlantic has not drawn funds pursuant to this agreement. Atlantic paid a finder's fee of $120,000 in connection with signing this agreement and subsequently was required to issue 600,000 commitment shares to Fusion Capital; those shares had an estimated fair value of $444,000. General and administrative expense for the nine-month period ended September 30, 2001, include amounts relating to the finder's fee and issuance of stock in the aggregate amount of $564,000.

On August 1, 2001, Atlantic agreed to issue 35,000 shares of its common stock to each of BH Capital Investments, L.P. and Excalibur Limited Partnership in return for their commitment to provide Atlantic with $3.5 million of financing in connection with an asset purchase for which Atlantic had submitted a bid. Atlantic subsequently issued those shares, but Atlantic did not ultimately purchase those assets. Those shares had an estimated fair value of $44,100, which is included as a general and administrative expense for the three-and nine-month periods ended September 30, 2001.

(12) SALE OF GEMINI ASSETS

Pursuant to an asset purchase agreement dated April 23, 2001, among Atlantic, Atlantic's majority-owned subsidiary Gemini Technologies, Inc., the Cleveland Clinic Foundation ("CCF") and CCF's affiliate IFN, Inc., Gemini sold to IFN substantially all its assets, including all those related to the 2-5A antisense enhancing technology, for future contingent royalty payments and withdrawal of CCF's arbitration demand against Atlantic and Gemini. The transaction closed on May 5, 2001. This transaction was beneficial to Atlantic since it permitted Atlantic to avoid terminating the Cleveland sublicense with no compensation to Gemini and spared Atlantic from having to pay the substantial shutdown costs that Gemini would likely have incurred without this asset purchase agreement. In connection with this sale, Atlantic recorded a loss of $334,408. This loss results from net assets sold to IFN of $136,408 and a liability related to SBIR grant funds for research on the 2-5A antisense technology, of approximately $198,000. Of the $198,000 accrual established upon closing, $194,500 remains accrued at September 30, 2001.

(13) SUBSEQUENT EVENTS

In October 2001, Atlantic stopped work on CryoComm, a wholly-owned subsidiary of Atlantic that had been developing superconducting electronics for Internet packet switching and transport products. Discontinuing work on CryoComm will allow Atlantic to focus on its core life-sciences technologies, although Atlantic will continue to prosecute the patents on this technology. As part of this restructuring, Walter Glomb's position was eliminated effective October 16, 2001, although Mr. Glomb will receive a 7% success fee if he is able to secure funding to further develop this technology. As stated in his employment agreement, Mr. Glomb will also receive a total of $62,500 in severance payments due under his employment agreement over six months following his termination. Such amounts will be recorded in the fourth quarter of 2001.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

You should read the following discussion of our results of operations and financial condition in conjunction with our Annual Report on Form 10-KSB/A for the year ended December 31, 2000. This discussion includes "forward-looking" statements that reflect our current views with respect to future events and financial performance. We use words such as we "expect," "anticipate," "believe," and "intend" and similar expressions to identify forward-looking statements. Investors should be aware that actual results may differ materially from our expressed expectations because of risks and uncertainties inherent in future events, particularly those risks identified in the "Risk Factors" section of our most recent Annual Report on Form 10-KSB/A, and should not unduly rely on these forward looking statements.

RESULTS OF OPERATIONS

THREE-MONTH PERIOD ENDED SEPTEMBER 30, 2001 VS. 2000

In accordance with a license and development agreement, as amended, Bausch & Lomb Surgical has paid our subsidiary, Optex Ophthalmologics, Inc. ("Optex"), for developing its Catarex technology. With the termination of this agreement at the conclusion of the sale of substantially all of Optex's assets (mostly intangible assets with no book value) in March 2001, as described further below, we no longer have the revenues or profits associated with that agreement available to us. As a result, for the three months ended September 30, 2001, this agreement provided no development revenue, and no related cost of development revenue. For the three months ended September 30, 2000, this agreement provided $1,072,716 of development revenue, and related cost of development revenue of $858,173.

For the quarter ended September 30, 2001, research and development expense was $172,257 as compared to $424,829 in the third quarter of 2000. This decrease is primarily due to the cessation of research and development activities on the antisense technology as a result of the sale of the assets of Gemini.

Through September 30, 2000, we made an investment in TeraComm, Inc. of $1,000,000 in cash and common stock and warrants valued at $1.8 million. During the quarter ended September 30, 2000, we expensed $263,359 ($2,653,382 has been expensed through September 30, 2000) of this payment as acquired in-process research and development since TeraComm's product development activity was in its very early stages. As a result of TeraComm's not meeting a technical milestone at December 31, 2000, no further investments were made in TeraComm.

For the quarter ended September 30, 2001, general and administrative expense was $496,294 as compared to $477,949 in the quarter ended September 30, 2000. This increase is principally due to an increase in payroll expenses of approximately $38,000 and an increase in expenses associated with the issuance of 35,000 shares of our common stock to each of BH Capital Investments, L.P. and Excalibur Limited Partnership in August 2001 in return for their commitment to provide us with $3.5 million of financing in connection with an asset purchase for which we had submitted a bid. We subsequently issued those shares, but we did not ultimately purchase those assets. Those shares had an estimated fair value of $44,100, which was recorded as a general and administrative expense for the three months ended September 30, 2001. These expense increases are offset by a reduction in legal expenses of approximately $33,000, a reduction in travel and entertainment expenses of about $17,000 and a reduction in other expenses of $14,000 as a result of our efforts to reduce costs.

For the quarter ended September 30, 2001, we had compensation expense relating to stock warrants of $35,968 as compared to $11,857 in the prior year. The current quarter expense consists of $45,355 associated with fully-vested warrants issued to Proteus Capital Corp. in August 2001 as partial compensation for fundraising services, offset by a reduction in expense of $9,387 associated with warrants issued to Dian Griesel as partial compensation for investor-relations services. The reduction of compensation expense associated with the warrants issued to Dian Griesel is a result of a decrease in our stock price during the quarter. Additional expense associated with these warrants will continue to be incurred over the remainder of the two-year term of the agreement. As long as these warrants continue to vest, that expense will be directly affected by the movement in the price of our common stock. For the quarter ended September 30, 2000, the expense was associated with warrants issued to

Joseph Stevens & Company as partial compensation for investment banking services. Compensation expense relating to these investor relations and investment banking services represent a general and administrative expense.

For the third quarter of 2001, interest and other income was $6,266, compared to $22,940 in the third quarter of 2000. The decrease in interest income is primarily due to the decline in our cash reserves.

Net loss applicable to common shares for the quarter ended September 30, 2001, was $735,562 as compared to $972,426 for the quarter ended September 30, 2000. This decrease in net loss applicable to common shares is attributable to the recording of acquired in-process research and development expense in conjunction with our investment in TeraComm Research, Inc. of $263,359 in the third quarter of 2000, as well as a reduction of research and development expenses of $252,572 from the quarter ended September 30, 2000, as compared to 2001. The net loss continues to include our share of TeraComm's losses. This will cease when our investment in TeraComm of $8,351 included in our consolidated balance sheet at September 30, 2001, is reduced to zero. The loss differential is partially reduced by the termination of our agreement with Bausch & Lomb. Since we no longer have the revenue or profits associated with that agreement available to us, we had no profit resulting from this agreement in the third quarter of 2001 as compared with $214,543 in the third quarter of 2000.

NINE-MONTH PERIOD ENDED SEPTEMBER 30, 2001 VS. 2000

In accordance with a license and development agreement, as amended, Bausch & Lomb Surgical has paid our subsidiary, Optex Ophthalmologics, Inc. ("Optex"), for developing its Catarex technology. For the nine months ended September 30, 2001, this agreement provided $2,461,922 of development revenue and related cost of development revenue of $2,082,568. For the nine months ended September 30, 2000, this agreement provided $3,419,831 of development revenue and related cost of development revenue of $2,735,865. The decrease in revenues and related expenses over last year was due to the fact that there were no revenues and related expenses since the termination of the agreement in March 2001. The decrease is offset by the recognition of a project completion bonus of $1,067,345 paid out and recognized at the completion of the project in March 2001. With the termination of the above agreement at the conclusion of the sale of substantially all of Optex's assets (mostly intangible assets with no book value) in March 2001, as described further below, we will no longer have the revenues or profits associated with that agreement available to us.

For the nine months ended September 30, 2001, research and development expense was $774,340 as compared to $854,927 for the nine months ended September 30, 2000. This decrease is due mainly to the cessation of research and development activities on the antisense technology as a result of the sale of the assets of Gemini. This decrease is offset somewhat by increased expenditures on certain development projects, including CT-3 during the first part of the year.

Through September 30, 2000, we made an investment in TeraComm, Inc. of $1,000,000 in cash and common stock and warrants valued at $1.8 million. For the nine months ended September 30, 2000, we expensed $2,653,382 of this payment as acquired in-process research and development since TeraComm's product development activity was in its very early stages. As a result of TeraComm's not meeting a technical milestone at December 31, 2000, no further investments were made in TeraComm.

For the nine months ended September 30, 2001, general and administrative expense was $2,333,567 as compared to $1,595,463 for the nine months ended September 30, 2000. This increase is largely due to an increase in payroll costs over last year of approximately $130,000, and an increase in expenses incurred in conjunction with a common stock purchase agreement entered into during the second quarter of 2001 with Fusion Capital Fund II, LLC. These expenses include the cost of our issuing 600,000 commitment shares to Fusion Capital of $444,000 and a finders fee of $120,000. Fusion's obligation to purchase our shares is subject to certain conditions, including the effectiveness of a registration statement covering the shares to be purchased. That registration statement was declared effective on July 6, 2001. A material contingency that may affect our operating plans and ability to raise funds under this agreement is our stock price. Currently, our stock price is below the floor price of $0.68 specified in the Fusion Capital agreement and as a result we are currently unable to draw funds pursuant to the Fusion Capital agreement. As the Fusion Capital agreement is currently structured, we cannot guarantee that we will be able to draw any funds. To date, we have not drawn funds pursuant to this agreement. See "Liquidity and Capital Resources" for further details on this agreement. In addition, we incurred expenses associated with the issuance of 35,000 shares of our common stock to each of BH Capital Investments, L.P. and Excalibur Limited Partnership in

August 2001 in return for their commitment to provide us with $3.5 million of financing in connection with an asset purchase for which we had submitted a bid. We did not ultimately purchase those assets. Those shares had an estimated fair value of $44,100 which was recorded as a general and administrative expense for the nine months ended September 30, 2001.

For the nine months ended September 30, 2001, we had compensation expense relating to stock warrants of $70,634 as compared to $1,073,511 in the prior year. The current year expense consists of $25,279 associated with warrants issued to Dian Griesel during March 2001 as partial compensation for investor relations services and $45,355 associated with fully vested warrants issued to Proteus Capital Corp in August 2001 as partial compensation for fund raising services. Additional expense associated with the warrants issued to Dian Griesel will continue to be incurred over the remainder of the two-year term of the agreement. As long as these warrants continue to vest, that expense will be directly affected by the movement in the price of our common stock. For the nine months ended September 30, 2000, we had $1,073,511 of expense associated with warrants issued to Joseph Stevens & Company as partial compensation for investment banking services. Compensation expense relating to these investor relations and investment banking services represent a general and administrative expense.

For the nine months ended September 30, 2001, interest and other income was $40,618, compared to $97,267 in the nine months ended September 30, 2000. The decrease in interest income is primarily due to the decline in our cash reserves.

Net loss applicable to common shares for the nine months ended September 30, 2001, was $2,044,369 as compared to $6,249,540 for the nine months ended September 30, 2000. This decrease in net loss applicable to common shares is attributable in part to a gain on the sale of the assets of our subsidiary, Optex, recognized during the nine months ended September 30, 2001 in the amount of $2,569,451, partially offset by a distribution to the minority shareholders of Optex of $837,274 (see further discussion of this sale below). In addition, the decrease in net loss applicable to common shares is compounded by the recording of acquired in-process research and development expense in conjunction with our investment in TeraComm, Inc. of $2,653,382 in the nine months ended September 30, 2000. In the nine months ended September 30, 2000, we recorded compensation expense of $1,073,511 relating to stock warrants issued to Joseph Stevens & Company compared with compensation expense of $70,634 relating to stock warrants issued to the Dian Griesel and Proteus Capital Corp. during the current year. The loss differential is partially reduced by a loss recorded on the sale of the assets of Gemini of $334,408 in the nine months ended September 30, 2001 and the cost of our issuing 600,000 commitment shares to Fusion Capital Fund II, LLC of $444,000 incurred in the nine months ended September 30, 2001. In addition, with the termination of our agreement with Bausch & Lomb, we no longer have the revenue or profits associated with that agreement available to us. As a result, we had a reduction in profit from this agreement of $304,612 from the nine months ended September 30, 2000 as compared to 2001.

Net loss applicable to common shares for the nine months ended September 30, 2001 also included a beneficial conversion on shares of our Series B preferred stock in the amount of $600,000 and a dividend of $167,127 paid upon the repurchase of the outstanding shares of Series B preferred stock recorded during the nine months ended September 30, 2001. We also issued preferred stock dividends on our Series A preferred stock for which the estimated fair value of $107,449 and $811,514 was included in the net loss applicable to common shares for the nine months ended September 30, 2001 and 2000, respectively. The decrease in the estimated fair value of these dividends as compared to the prior year is primarily a reflection of the decline in our stock price and a reduction of the number of preferred shares issued.

LIQUIDITY AND CAPITAL RESOURCES

From inception to September 30, 2001, we incurred an accumulated deficit of $26,163,254, and we expect to continue to incur additional losses through the year ending December 31, 2001 and for the foreseeable future. The loss has been incurred through primarily research and development activities related to the various technologies under our control.

Pursuant to an asset purchase agreement dated January 31, 2001, among Bausch & Lomb, a Bausch & Lomb affiliate, Atlantic, and Optex, on March 2, 2001, Optex sold to Bausch & Lomb substantially all its assets (mostly intangible assets with no book value), including all those related to the Catarex technology. As a result of this sale, Atlantic and Optex no longer have any obligations to Bausch & Lomb in connection with development of

the Catarex technology. The purchase price was $3 million paid at closing (approximately $564,000 of which was distributed to the minority shareholders). In addition, Optex is entitled to receive additional consideration, namely $1 million once Bausch & Lomb receives regulatory approval to market the Catarex device in Japan, royalties on net sales on the terms stated in the original development agreement dated May 14, 1998, between Bausch & Lomb and Optex, as amended, and minimum royalties of $90,000, $350,000, and $750,000 for the first, second, and third years, respectively, starting on first commercial use of the Catarex device or January 1, 2004, whichever is earlier. Optex also has the option to repurchase the acquired assets from Bausch & Lomb if it ceases developing the Catarex technology at fair value. Upon the sale of Optex assets, Bausch & Lomb's development agreement with Optex was terminated. In the asset purchase agreement Optex agreed to forgo future contingent payments provided for in the earlier development agreement. As a result of this transaction, we recorded a gain on the sale of Optex assets of $2,569,451. We made a profit distribution of $837,274 to Optex's minority shareholders, representing their share of the cumulative profit from the development agreement with Bausch & Lomb and the proceeds from the sale of Optex' assets.

On September 28, 2000, pursuant to a convertible preferred stock and warrants purchase agreement (the "Purchase Agreement"), we issued to BH Capital Investments, L.P. and Excalibur Limited Partnership (together, the "Investors") for a purchase price of $2,000,000, 689,656 shares of our Series B convertible preferred stock and warrants to purchase 134,000 shares of our common stock. Half of the shares of Series B preferred stock (344,828 shares) and warrants to purchase half of the shares of common stock (67,000 shares) were held in escrow, along with half of the purchase price.

On December 4, 2000, Atlantic and the Investors entered into a stock repurchase agreement (the stock "Repurchase Agreement") pursuant to which we repurchased from the Investors for $500,000 137,930 shares of Series B preferred stock, and agreed to the release from escrow to the Investors of the $1,000,000 purchase price of the 344,828 shares of Series B preferred stock held in escrow. We also allowed the Investors to keep all of the warrants issued under the purchase agreement and issued to the Investors warrants to purchase a further 20,000 shares of our common stock at the same exercise price. On January 19, 2001, 41,380 shares of Series B preferred stock were converted by the Investors into 236,422 shares of our common stock. On March 9, 2001, Atlantic and the Investors entered into a second stock repurchase agreement pursuant to which we repurchased from the Investors, for an aggregate purchase price of $617,067, all 165,518 shares of our Series B preferred stock held by the Investors. The repurchase price represented 125% of the purchase price originally paid by the investors for the repurchased shares, as well as an amount equal to the annual dividend on the Series B preferred stock at a rate per share of 8% of the original purchase price. The repurchased shares constitute all remaining outstanding shares of Series B preferred stock; we have cancelled those shares.

On May 7, 2001, we entered into a common stock purchase agreement with Fusion Capital Fund II, LLC pursuant to which Fusion Capital agreed to purchase up to $6.0 million of our common stock over a 30-month period, subject to a 6-month extension or earlier termination at our discretion. This agreement replaced an earlier common stock purchase agreement between Atlantic and Fusion Capital dated March 16, 2001. Fusion's obligation to purchase shares of our common stock is subject to certain conditions, including the effectiveness of a registration statement covering the shares to be purchased. That registration statement was declared effective on July 6, 2001. The selling price of the shares will be equal to the lesser of (1) $20.00 or (2) a price based upon the future market price of the common stock, without any fixed discount to the market price. A material contingency that may affect our operating plans and ability to raise funds under this agreement is our stock price. Currently, our stock price is below the floor price of $0.68 specified in the Fusion Capital agreement and as a result we are currently unable to draw funds pursuant to the Fusion Capital agreement. As the Fusion Capital agreement is currently structured, we cannot guarantee that we will be able to draw any funds. To date, we have not drawn funds pursuant to this agreement. We paid a $120,000 finder's fee relating to this transaction to Gardner Resources, Ltd. and issued to Fusion Capital Fund II, LLC 600,000 common shares as a commitment fee. Those shares had an estimated fair value of $444,000. We have amended our agreement with Fusion Capital to allow Atlantic to draw funds pursuant to the agreement regardless of its listing status on the Nasdaq SmallCap Market.

On November 6, 2001, we entered into an agreement with Joseph Stevens & Company, Inc. in which Joseph Stevens agreed to act as placement agent for a private placement of shares of our common stock. In that private placement, the price of each share of our common stock will be $0.24 and the minimum and maximum subscription amounts will be $2,000,000 and $3,000,000, respectively. In addition, each investor will receive a warrant to purchase one share of our common stock for every share of our common stock purchased by that investor.

The warrants will have an exercise price of $0.29 and will be exercisable for five years from the closing date. In connection with the offering, we will pay to Joseph Stevens a placement fee equal to 7% of the aggregate subscription amount plus 10% of the number of shares and warrants issued to the investors. Joseph Stevens has informed us that as of the end of November 19, 2001, investors had placed in escrow over $1,000,000 towards the aggregate subscription price of this private placement, and we expect that by November 30, 2001, we will have received commitments for at least the minimum aggregate subscription amount and will be able to close this financing. There can, however, be no assurances that the closing will take place by then, or at all.

Our available working capital and capital requirements will depend upon numerous factors, including progress of our research and development programs; our progress in and the cost of ongoing and planned preclinical and clinical testing; the timing and cost of obtaining regulatory approvals; the cost of filing, prosecuting, defending, and enforcing patent claims and other intellectual property rights; competing technological and market developments; changes in our existing collaborative and licensing relationships; the resources that we devote to developing manufacturing and commercializing capabilities; technological advances; the status of our competitors; our ability to establish collaborative arrangements with other organizations; and our need to purchase additional capital equipment.

At September 30, 2001, we had $440,558 in cash and cash equivalents. As of September 30, 2001, our current liabilities exceeded our current assets and we had a working capital deficit of $280,607. We anticipate that our resources, before any proceeds from the proposed private placement, will be sufficient to finance our anticipated needs for operating and capital expenditures at our current level of operations for at least the next several weeks. We anticipate, however, that the proceeds we expect to receive from the private placement conducted through Joseph Steven & Company, Inc. would be sufficient to finance our anticipated needs for operating and capital expenditures at our current level of operations for at least the next year. In addition, we will attempt to generate capital through a combination of collaborative agreements, strategic alliances, and debt financing. However, we can give no assurance that we will be able to obtain additional capital through these sources or upon terms acceptable to us.

We have the following short term and long term liquidity needs. Our cash utilized for operations for the next year is expected to be approximately $150,000 per month. Currently, these expected operating expenses include approximately $40,000 per month for research and preclinical development expenses and approximately $110,000 for general and administrative expenses. Based on our cash position of $440,558 at September 30, 2001, we will have to raise additional funds within the next month to fund our current spending requirements. At present, we have reduced or eliminated planned levels of development activities.

On August 9, 2001, we retained Proteus Capital Corp. on a non-exclusive basis as our investment bankers to assist us with raising additional funds. Pursuant to our agreement with Proteus, we granted Proteus warrants to purchase 100,000 shares of our common stock at $0.59 per share, which was the average closing stock price for the two weeks ending August 17, 2001. The warrants were fully vested on the date of the agreement and the term of the warrants is five years.

Subsequent to an oral hearing before a Nasdaq Listing Qualifications Panel, on August 23, 2001, our securities were delisted from the Nasdaq Stock Market for failing to meet the minimum bid price requirements set forth in the NASD Marketplace Rules, as our common stock had traded for less than $1.00 for more than 30 consecutive business days. Our common stock trades now on the OTC Bulletin Board under the symbol "ATLC.OB". Delisting our common stock from Nasdaq could have a material adverse effect on our ability to raise additional capital, our stockholders' liquidity and the price of our common stock.

RESEARCH AND DEVELOPMENT ACTIVITIES

Optex and the Catarex(TM) Technology

Our majority-owned (81.2%) subsidiary, Optex, is entitled to royalties and other revenues in connection with commercialization of the Catarex technology. Bausch & Lomb, a multinational ophthalmics company, is developing this technology to overcome the limitations and deficiencies of traditional cataract extraction techniques. Optex had been the owner of this technology and was developing it pursuant to a development agreement with Bausch & Lomb, but on March 2, 2001, Optex sold to Bausch & Lomb substantially all of its assets (mostly

intangible assets with no book value), including those related to the Catarex technology, and delivered 2,400 "First-Generation" Catarex handpieces to Bausch & Lomb for use in Human Feasibility Studies and Clinical Trials.

Bausch & Lomb, which has committed over $15 million on the project to date, has assumed full responsibility for development and marketing of the technology, and will pay Optex royalties on sales of the device and associated system.

Bausch & Lomb planned to conduct a Human Feasibility Study on the First Generation Catarex handpiece at a location outside the United States in mid- September 2001, but cancelled it due to several factors including the immediate concern surrounding extended travel as a result the September 11, 2001 terrorist tragedy.

Accordingly, Bausch & Lomb informed us that, in an effort to accelerate the project, it will combine the Feasibility Study and Clinical Trials on the First-Generation Catarex handpiece into one study under an FDA approved Investigational Device Exemption (IDE). Bausch & Lomb considers that the risk of combining the two studies is minimal since all the studies to date indicate that the system operates as intended.

Bausch & Lomb informed us that it plans to submit the IDE to the FDA in the fourth quarter of 2001. Once received, the FDA requires 30 days for review and approval. This would allow Bausch & Lomb to begin the trials as early as the first quarter of 2002, depending on the speed of patient registration. Once the Clinical Trails are completed there will be a 90 day follow-up period, and then the data will be submitted in a report to the FDA along with a 510(k) application for the First-Generation Catarex handpiece.

Bausch & Lomb has also informed us that it is continuing to develop the Second-Generation Catarex handpiece that better integrates the "back-end" plumbing of the Catarex handpiece with its Millenium Surgical platform, but retains unchanged the "front-end" surgical instrument of the Catarex handpiece that enters the human eye during surgery. Since the front-end of the Second-Generation handpiece is unchanged from the First-Generation handpiece, Bausch & Lomb believes that FDA 510(k)/IDE approval of the First-Generation Catarex handpiece should streamline FDA approval of the Second-Generation Catarex handpiece by allowing it to be filed under a straight 510(k) application scheduled to follow shortly thereafter.

CT-3 Anti-inflammatory/Analgesic Compound

We are developing our proprietary compound CT-3, a patented synthetic derivative of carboxylic tetrahydrocannabinol (THC-7C), as an alternative to nonsteroidal anti-inflammatory drugs, or "NSAIDs," such as aspirin and ibuprofen. Over 130 million Americans suffer from chronic pain and 40 million suffer from arthritis. Worldwide prescription sales of analgesic/anti-inflammatory drugs exceeded $9 billion in 1999. Preliminary studies have shown that CT-3 demonstrates analgesic/anti-inflammatory properties at microgram doses without central nervous system or gastrointestinal side effects and also reduces joint damage caused by rheumatoid arthritis.

Since CT-3 appears to possess a wide range of therapeutic activity, we are carefully choosing an indication that we feel CT-3 would be most efficacious for and one that will strategically allow us to increase the licensing value of CT-3 in the most timely and cost effective manner. We are continuing our efforts by conducting additional preclinical tests to study the analgesic activity of CT-3, particularly with reference to neuropathic pain. Preliminary results show that CT-3 intraperitoneally dramatically reduces allodynia in neuropathic rats (with a partial sciatic nerve ligation). We are planning to initiate shortly a Phase I/II clinical trial of safety, tolerability, and efficacy to determine the upper limits of safe dosing with CT-3 and to measure the potential for CT-3 to act as a pain reliever in patients with neuropathic pain. In addition, we have recently initiated a development plan for CT-3 to test its efficacy in multiple sclerosis. In an animal model for multiple sclerosis, CT-3 induced a significant decrease in spasticity, demonstrated a rapid inhibition of limb stiffness and the effect was relatively long-lived. The results of the study validated spasticity as a potential indication for CT-3 use. We are also preparing to conduct Phase II clinical trials to evaluate the efficacy of CT-3 in multiple sclerosis-associated tremors and spasticity.

We are continuing to develop CT-3 for use in the treatment of a variety of indications. In order to significantly increase the potential value of a sublicensing deal, we have determined to delay sublicensing CT-3, to suitable strategic partners to assist in clinical development, regulatory approval filing, manufacturing and marketing of CT-3 until after successful completion of the Phase II Clinical Trials.

CryoComm

In October 2001, we stopped work on CryoComm, a wholly-owned subsidiary of Atlantic that had been developing superconducting electronics for Internet packet switching and transport products. CryoComm had developed and identified all the elements required to demonstrate an ultrafast fiber-optic packet switch based in superconducting electronics and had been seeking directed investment of $5 million to fund this demonstration. We have presented this plan to major global long-haul telecommunications carriers, and although their responses have been uniformly positive, and although they have encouraged us to proceed with this development, we have not be able to secure a directed investment from them or from other private funding sources. Moreover, we determined that we would be unlikely to secure financing for the foreseeable future, given the recent dramatic slowdown in planned telecommunication infrastructure spending, a slowdown that is partially the result of current overcapacity and an especially harsh economic downward correction in the telecommunications equipment sector.

Discontinuing work on CryoComm will allow us to focus on our core life-sciences technologies, although we will continue to prosecute the patents on this technology. As part of this restructuring, Walter Glomb's position was eliminated effective October 16, 2001, although Mr. Glomb will receive a 7% success fee if he is able to secure funding to further develop this technology. He will also receive a total of $62,500 in severance payments due under his employment agreement over six months following his termination.

RECENT DEVELOPMENTS

On November 6, 2001, we entered into an agreement with Joseph Stevens & Company, Inc. in which Joseph Stevens agreed to act as placement agent for a private placement of shares of our common stock. In that private placement, the price of each share of our common stock will be $0.24 and the minimum and maximum subscription amounts will be $2,000,000 and $3,000,000, respectively. In addition, each investor will receive a warrant to purchase one share of our common stock for every share of our common stock purchased by that investor. The warrants will have an exercise price of $0.29 and will be exercisable for five years from the closing date. In connection with the offering, we will pay to Joseph Stevens a placement fee equal to 7% of the aggregate subscription amount plus 10% of the number of shares and warrants issued to the investors.

We anticipate that proceeds from this private placement will be sufficient to finance our anticipated needs for operating and capital expenditures at our current level of operations for at least the next year. We expect that by November 30, 2001, we will have received commitments for the minimum aggregate subscription amount and will be able to close this financing.

PART II -- OTHER INFORMATION

Item 2. Changes in Securities

(c) Recent Sales of Unregistered Securities

Shares of common stock issued to BH Capital Investments, L.P. and Excalibur Limited Partnership

On August 1, 2001, we agreed to issue 35,000 shares of our common stock to each of BH Capital Investments, L.P. and Excalibur Limited Partnership in return for their commitment to provide us with $3.5 million of financing in connection with an asset purchase for which we had submitted a bid. We subsequently issued those shares but ultimately did not purchase those assets. In issuing these shares, we relied on the exemption from registration provided by Regulation D of the Securities Act.

Warrants issued to Proteus Capital Corp. for the purchase of shares of common stock.

On August 9, 2001, we entered into an agreement with Proteus Capital Corp ("Proteus") in which Proteus agreed to assist us with raising additional funds. Pursuant to this agreement, we granted Proteus warrants to purchase 100,000 shares of our common stock at $0.59 per share, which was the average closing stock price for the two weeks ending August 17, 2001. The warrants were fully vested on the date of the agreement and were outstanding at September 30, 2001. The term of the warrants is five years. In issuing these shares, we relied on the exemption from registration provided by Regulation D of the Securities Act.

Item 4. Submission of Matters to a Vote of Security Holders

On July 17, 2001, we filed with the Securities and Exchange Commission a definitive proxy statement seeking stockholder approval of the following three proposals at the annual meeting of stockholders held on August 8, 2001:

1. RESOLVED, that Frederic P. Zotos, Steve H. Kanzer, Peter O. Kliem and A. Joseph Rudick be and hereby are re-elected as directors of Atlantic, to serve until their respective successors are duly elected and qualified.

2. RESOLVED, that the board of directors' selection of KPMG LLP to serve as Atlantic's independent auditors for the year ending December 31, 2001, hereby is ratified.

3. RESOLVED, that Atlantic may transact such other business as may be properly come before the Annual Meeting and any adjournment or adjournments thereof.

All three proposals were approved by our stockholders. Having received more than 98% of the 6,187,435 votes cast, Dr. Rudick, Mr. Zotos, Mr. Kanzer and Mr. Kliem were duly elected. The appointment of KPMG as our auditor was approved by 6,177,595 votes (or 99.8%) of the 6,187,435 votes cast. The resolution authorizing us to transact such other business as may properly come before the annual meeting and any adjournments thereof was approved by 6,022,611 (or 97.3%) of the 6,187,435 votes cast.

Item 5. Other Information

Delisting of Our Securities

As of March 20, 2001, the minimum bid price of our common stock had been less than $1.00 for 30 consecutive business days. This constituted a failure on our part to meet Nasdaq's continued inclusion requirement for minimum bid price.

On March 22, 2001, Nasdaq notified us of this failure, and we had a period of 90 calendar days from that notice to comply with the continued inclusion standard for minimum bid price. To do so, we would have had to meet that standard for a minimum of 10 consecutive business days during the 90-day compliance period. We failed

to do so, and on June 21, 2001, Nasdaq notified us that we would be delisted on June 29, 2001, unless by June 28, 2001, we requested a hearing before Nasdaq's Listing Qualifications Panel.

On June 28, 2001, we requested a hearing, and that hearing was held on August 9, 2001. On August 23, 2001, our securities were delisted from the Nasdaq Stock Market for failing to meet the minimum bid price requirements set forth in the NASD Marketplace Rules. Our common stock now trades on the OTC Bulletin Board under the symbol "ATLC.OB". Delisting of our common stock from Nasdaq could have a material adverse effect on our ability to raise additional capital, our stockholders' liquidity and the price of our common stock.

Item 6: Exhibits and Reports on Form 8-K

Exhibits

The following documents are referenced or included in this report.

| Exhibit No. | Description |
|---|---|
| 3.1(1) | Certificate of incorporation of Atlantic, as amended to date. |
| 3.2(1) | Bylaws of Atlantic, as amended to date. |
| 3.3(5) | Certificate of designations of Series A Convertible Preferred Stock. |
| 3.4(6) | Certificate of increase of Series A Convertible Preferred Stock. |
| 3.5(9) | Certificate of designations, preferences and rights of Series B convertible preferred stock of Atlantic, filed on September 28, 2000. |
| 3. | 6(9) Certificate of amendment of the certificate of designations, preferences and rights of Series B convertible preferred stock of Atlantic, filed on November 17, 2000. |
| 3.7(10) | Certificate of amendment of the certificate of designations, preferences and rights of Series B convertible preferred stock of Atlantic, filed on January 9, 2001. |
| 3.8(10) | Certificate of amendment of the certificate of designations, preferences and rights of Series B convertible preferred stock of Atlantic, filed on January 19, 2001. |
| 4.2(1) | Form of unit certificate. |
| 4.3(1) | Specimen common stock certificate. |
| 4.4(1) | Form of redeemable warrant certificate. |
| 4.5(1) | Form of redeemable warrant agreement by and between Atlantic and Continental Stock Transfer & Trust Company. |
| 4.6(1) | Form of underwriter's warrant certificate. |
| 4.7(1) | Form of underwriter's warrant agreement by and between Atlantic and Joseph Stevens & Company, L.P. |
| 4.8(1) | Form of subscription agreement by and between Atlantic and the Selling Stockholders. |
| 4.9(1) | Form of bridge note. |
| 4.10(1) | Form of bridge warrant. |

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| 4.11(2) | Investors' rights agreement by and among Atlantic, Dreyfus Growth and Value Funds, Inc. and Premier Strategic Growth Fund. |
| 4.12(2) | Common stock purchase agreement by and among Atlantic, Dreyfus Growth and Value Funds, Inc. and Premier Strategic Growth Fund. |
| 10.2(1) | Employment agreement dated July 7, 1995, between Atlantic and Jon D. Lindjord. |
| 10.3(1) | Employment agreement dated September 21, 1995, between Atlantic and Dr. Stephen R. Miller. |
| 10.4(1) | Employment agreement dated September 21, 1995, between Atlantic and Margaret A. Schalk. |
| 10.5(1) | Letter agreement dated August 31, 1995, between Atlantic and Dr. H. Lawrence Shaw. |
| 10.6(1) | Consulting agreement dated January 1, 1994, between Atlantic and John K. A. Prendergast. |
| 10.8(1) | Investors' Rights agreement dated July 1995, between Atlantic, Dr. Lindsay A. Rosenwald and VentureTek, L.P. |
| 10.9(1) | License and assignment agreement dated March 25, 1994, between Optex Ophthalmologics, Inc., certain inventors and NeoMedix Corporation, as amended. |
| 10.10(1) | License agreement dated May 5, 1994, between Gemini Gene Therapies, Inc. and the Cleveland Clinic Foundation. |
| 10.11(1)+ | License agreement dated June 16, 1994, between Channel Therapeutics, Inc., the University of Pennsylvania and certain inventors, as amended. |
| 10.12(1)+ | License agreement dated March 28, 1994, between Channel Therapeutics, Inc. and Dr. Sumner Burstein. |
| 10.13(1) | Form of financial advisory and consulting agreement by and between Atlantic and Joseph Stevens & Company, L.P. |
| 10.14(1) | Employment agreement dated November 3, 1995, between Atlantic and Shimshon Mizrachi. |
| 10.15(3) | Financial advisory agreement between Atlantic and Paramount dated September 4, 1996 (effective date of April 15, 1996). |
| 10.16(3) | Financial agreement between Atlantic, Paramount and UI USA dated June 23, 1996. |
| 10.17(3) | Consultancy agreement between Atlantic and Dr. Yuichi Iwaki dated July 31, 1996. |
| 10.18(3) | 1995 stock option plan, as amended. |
| 10.19(3) | Warrant issued to an employee of Paramount Capital, LLC to purchase 25,000 shares of Common Stock of Atlantic. |
| 10.20(3) | Warrant issued to an employee of Paramount Capital, LLC to purchase 25,000 shares of Common Stock of Atlantic. |
| 10.21(3) | Warrant issued to an employee of Paramount Capital, LLC to purchase 12,500 shares of Common Stock of Atlantic. |
| 10.22(4) | Letter agreement between Atlantic and Paramount Capital, Inc. dated February 26,1997. |

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| 10.23(4) | agreement and plan of reorganization by and among Atlantic, Channel Therapeutics, Inc. and New Channel, Inc. dated February 20, 1997. |
| 10.24(4) | Warrant issued to John Prendergast to purchase 37,500 shares of Atlantic's Common Stock. |
| 10.25(4) | Warrant issued to Dian Griesel to purchase 24,000 shares of Atlantic's Common Stock. |
| 10.26(7) | Amendment No. 1 to development & license agreement by and between Optex and Bausch & Lomb Surgical, Inc. dated September 16, 1999. |
| 10.27(8) | Financial advisory and consulting agreement by and between Atlantic and Joseph Stevens & Company, Inc. dated January 4, 2000. |
| 10.28(8) | Warrant No. 1 issued to Joseph Stevens & Company, Inc. to purchase 150,000 shares of Atlantic's Common Stock exercisable January 4, 2000. |
| 10.29(8) | Warrant No. 2 issued to Joseph Stevens & Company, Inc. to purchase 150,000 shares of Atlantic's Common Stock exercisable January 4, 2001. |
| 10.30(8) | Warrant No. 3 issued to Joseph Stevens & Company, Inc. to purchase 150,000 shares of Atlantic's Common Stock exercisable January 4, 2002. |
| 10.31(9) | Preferred stock purchase agreement dated May 12, 2000, between Atlantic and TeraComm Research, Inc. |
| 10.32(9) | Warrant certificate issued May 12, 2000, by Atlantic to TeraComm Research, Inc. |
| 10.33(9) | Stockholders agreement dated May 12, 2000, among TeraComm Research, Inc., the common stockholders of TeraComm, and Atlantic. |
| 10.34(9) | Registration rights agreement dated May 12, 2000, between Atlantic and TeraComm Research, Inc. with respect to shares of TeraComm preferred stock issued to Atlantic. |
| 10.35(9) | Registration rights agreement dated May 12, 2000, between Atlantic and TeraComm Research, Inc. with respect to shares of Atlantic common stock issued to TeraComm. |
| 10.36(9) | Employment agreement dated as of April 10, 2000, between Atlantic and A. Joseph Rudick. |
| 10.37(9) | Employment agreement dated as of April 3, 2000, between Atlantic and Frederic P. Zotos. |
| 10.38(9) | Employment agreement dated as of April 10, 2000, between Atlantic and Nicholas J. Rossettos, as amended. |
| 10.39(9) | Employment agreement dated as of May 15, 2000, between Atlantic and Walter Glomb. |
| 10.40(9) | Employment agreement dated as of April 18, 2000, between Atlantic and Kelly Harris. |
| 10.41(10) | Amendment dated as of July 18, 2000, to the Preferred Stock Purchase agreement dated May 12, 2000, between Atlantic and TeraComm Research, Inc. |
| 10.42(10) | Convertible preferred stock and warrants purchase agreement dated September 28, 2000, among Atlantic, BH Capital Investments, L.P. and Excalibur Limited Partnership. |
| 10.43(10) | Registration rights agreement dated September 28, 2000, among Atlantic, BH Capital Investments, L.P., and Excalibur Limited Partnership. |

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| 10.44(10) | Escrow agreement dated September 28, 2000, among Atlantic, BH Capital Investments, L.P., and Excalibur Limited Partnership. |
| 10.45(10) | Form of stock purchase warrants issued on September 28, 2000, to BH Capital Investments, L.P., exercisable for shares of common stock of Atlantic. |
| 10.46(10) | Form of stock purchase warrants issued on September 28, 2000, to Excalibur Limited Partnership, exercisable for shares of common stock of Atlantic. |
| 10.47(10) | Amendment No. 1 dated October 31, 2000, to convertible preferred stock and warrants purchase agreement dated September 28, 2000, among Atlantic, BH Capital Investments, L.P., and Excalibur Limited Partnership. |
| 10.48(12) | Stock repurchase agreement dated December 4, 2000, among Atlantic, BH Capital Investments, L.P., and Excalibur Limited Partnership. |
| 10.49(14) | Letter agreement dated December 28, 2000, among Atlantic and BH Capital Investments, L.P., and Excalibur Limited Partnership. |
| 10.50(11) | Amendment No. 2 dated January 9, 2001, to convertible preferred stock and warrants purchase agreement dated September 28, 2000, among Atlantic, BH Capital Investments, L.P., and Excalibur Limited Partnership. |
| 10.51(14) | Amendment No. 1 dated January 9, 2001, to registration rights agreement dated September 28, 2000, among Atlantic and BH Capital Investments, L.P. and Excalibur Limited Partnership. |
| 10.52(11) | Amendment No. 3 dated January 19, 2001, to convertible preferred stock and warrants purchase agreement dated September 28, 2000, among Atlantic, BH Capital Investments, L.P., and Excalibur Limited Partnership. |
| 10.53(14) | Letter agreement dated January 25, 2001, among Atlantic and BH Capital Investments, L.P., and Excalibur Limited Partnership. |
| 10.54(13) | Stock repurchase agreement No. 2 dated March 9, 2001, among Atlantic, BH Capital Investments, L.P., and Excalibur Limited Partnership. |
| 10.55(15) | Common stock purchase agreement dated March 16, 2001, between Atlantic and Fusion Capital Fund II, LLC. |
| 10.56(15) | Warrant certificate issued March 8, 2001 by Atlantic to Dian Griesel. |
| 10.57(16) | Common stock purchase agreement dated as of May 7, 2001, between Atlantic and Fusion Capital Fund II, LLC. |
| 10.58(16) | Form of registration rights agreement between Atlantic and Fusion Capital Fund II, LLC. |
| 10.59* | Asset purchase agreement dated as of January 31, 2001, between Bausch & Lomb Incorporated, Bausch & Lomb Surgical, Inc., Optex Ophthalmologics, Inc. and Atlantic (the "January 31 Asset Purchase Agreement). |
| 10.60* | Amendment No. 1 dated March 2, 2001, to the January 31 Asset Purchase Agreement. |
| 10.61* | Asset purchase agreement dated as of April 23, 2001, between Atlantic, Gemini Technologies, Inc., and IFN, Inc. |
| 21.1(1) | Subsidiaries of Atlantic. |

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| + | Confidential treatment has been granted as to certain portions of these exhibits. |
| * | Filed herewith. |
| (1) | Incorporated by reference to exhibits of Atlantic's registration statement on Form SB-2, Registration #33-98478, as filed with the Securities and Exchange Commission (the "SEC") on October 24, 1995 and as amended by Amendment No. 1, Amendment No. 2, Amendment No.3, Amendment No. 4 and Amendment No. 5, as filed with the SEC on November 9, 1995, December 5, 1995, December 12, 1995, December 13, 1995 and December 14, 1995, respectively. |
| (2) | Incorporated by reference to exhibits of Atlantic's Current Report on Form 8-K, as filed with the SEC on August 30, 1996. |
| (3) | Incorporated by reference to exhibits of Atlantic's Form 10-QSB for the period ended September 30, 1996. |
| (4) | Incorporated by reference to exhibits of Atlantic's Form 10-QSB for the period ended March 31, 1996. |
| (5) | Incorporated by reference to exhibits of Atlantic's Current Report on Form 8-KSB, as filed with the SEC on June 9, 1997. |
| (6) | Incorporated by reference to exhibits of Atlantic's Registration Statement on Form S-3 (Registration No. 333-34379), as filed with the Commission on August 26, 1997, and as amended by Amendment No. 1 as filed with the SEC on August 28, 1997. |
| (7) | Incorporated by reference to exhibits of Atlantic Form 10-QSB for the period ended September 30, 1999. |
| (8) | Incorporated by reference to exhibits of Atlantic's Form 10-KSB for the period ended December 31, 1999. |
| (9) | Incorporated by reference to exhibits of Atlantic's Form 10-QSB for the period ended June 30, 2000. |
| (10) | Incorporated by reference to exhibits of Atlantic's Form 10-QSB for the period ended September 30, 2000. |
| (11) | Incorporated by reference to exhibits of Atlantic's Form 8-K filed on January 24, 2001. |
| (12) | Incorporated by reference to exhibits of Atlantic's Form 8-K filed on December 11, 2000. |
| (13) | Incorporated by reference to exhibits of Atlantic's Form 8-K filed on March 14, 2001. |
| (14) | Incorporated by reference to exhibits of Atlantic's Form 10-KSB filed on April 17, 2001. |
| (15) | Incorporated by reference to exhibits of Atlantic's Form 10-QSB for the period ended March 31, 2001. |
| (6) | Incorporated by reference to exhibits of Atlantic's Registration Statement on Form SB-2 (Registration No. 333-61974), as filed with the Commission on May 31, 2001, and as amended by Amendment No. 1 as filed with the SEC on June 29, 2001. |

Reports on Form 8-K

No reports on Form 8-K were filed during the quarter for which this report is filed.

SIGNATURES

In accordance with the requirements of the Exchange Act, Atlantic caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

ATLANTIC TECHNOLOGY VENTURES, INC.

Date: November 19, 2001

/s/ Fredric P. Zotos
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Frederic P. Zotos
President, Chief Executive Officer,
and Director

Date: November 19, 2001

/s/ Nicholas J. Rossettos
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Nicholas J. Rossettos
Chief Financial Officer

# ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT, dated as of January 31, 2001 (this "Agreement"), by and among BAUSCH & LOMB INCORPORATED, a New York corporation ("Buyer"), BAUSCH & LOMB SURGICAL, INC., a Delaware corporation and wholly-owned subsidiary of Buyer ("BLS"), OPTEX OPHTHALMOLOGICS, INC., a Delaware corporation ("Seller"), and ATLANTIC TECHNOLOGY VENTURES, INC., a Delaware corporation ("Atlantic").

WHEREAS, Seller, a majority-owned subsidiary of Atlantic, and BLS are parties to a Development and License Agreement entered into on May 14, 1998, as amended by Amendment No. 1 to Development and License Agreement dated September 16, 1999 (collectively, the "Development Agreement"), a copy of which is attached hereto as Exhibit A, pursuant to which the parties reached agreement relating to the joint development and commercialization by BLS and Seller of the Catarex Products (as defined in the Development Agreement) on a world wide basis (the "Project"); and

WHEREAS, Seller, Buyer and BLS wish to terminate the Development Agreement, and Seller wishes to sell and transfer to B&L, and B&L wishes to purchase, substantially all of the assets related to the Project, subject to the terms and conditions of this Agreement

NOW THEREFORE, in consideration of the foregoing premises, the parties hereto intending to be legally bound, agree as follows:

## ARTICLE 1

## DEFINITIONS

For purposes of this Agreement, capitalized terms used herein, and not otherwise defined in this Article 1 or elsewhere herein shall have the meanings specified in the Development Agreement:

1.1 "Action" means any action, complaint, petition, investigation, suit or other proceeding, whether civil or criminal, in law or in equity, or before any arbitrator or Governmental Entity.

1.2 "Affiliate" means any person, group of persons, company or other enterprise (collectively a "Person") that is controlled by, controls, or is under common control with, such Person for so long as such control relationship continues to exist. "Control" as used in this definition means the possession, directly or indirectly, of the power to direct or cause the direction of the management of a Person, whether through ownership of voting securities, by contract or otherwise.

1.3 "Clinical Demonstration" means the clinical trial described in Exhibit B attached hereto.

1.4 "Encumbrances" means all claims, security interests, liens, pledges, charges, escrows, options, proxies, rights of first refusal, preemptive rights, mortgages, hypothecations, prior assignments, title retention agreements, indentures, security agreements, leases, easements, encumbrances or restrictions (whether on voting, sale, transfer, disposition or otherwise), whether imposed by agreement, law, equity or otherwise.

1.5 "Field" means the research and development, manufacture, use, importation, offer to sell or sale of any product or service related to the removal of the human lens in connection with cataract surgery.

1.6 "Governmental Entity" means any government or any department, commission, board, bureau, agency, court, official, political subdivision, tribunal or other instrumentality of any government, whether federal, state or local, domestic or foreign.

1.7 "Indemnified Party" means the party entitled to indemnity hereunder.

1.8 "Indemnifying Party" means the party obligated to provide indemnification hereunder.

1.9 "Laws" means all laws, statutes, regulations, constitutional provisions, ordinances, interpretations, decrees, injunctions, judgments, orders, rulings, assessments or writs of any Governmental Entity in effect at or prior to Closing.

1.10 "Loss" means any action, cost, damage, disbursement, expense, liability, loss, deficiency, diminution in value, obligation, penalty, fine, assessment or settlement of any kind or nature, whether foreseeable or unforeseeable, including, but not limited to, reasonable and documented interest or other carrying costs, penalties, legal, accounting and other professional fees and expenses incurred in the investigation, collection, prosecution and defense of claims, actual or threatened, inquiries, hearings or other legal or administrative proceedings, and amounts paid in settlement, that may be imposed on or otherwise incurred or suffered by the specified Person; provided, however, that "Loss" shall not include any amount that is received by such specified Person under a valid and collectible insurance policy.

1.11 "Order" means any decree, injunction, judgment, order, ruling, assessment or writ.

1.12 "Permit" means any waiver, exemption, variance, franchise,

certificate of authority, order, permit, authorization, license or similar approval.

1.13 "Permitted Encumbrances" means (a) liens for Taxes, assessments and other governmental charges not yet due and payable, (b) immaterial mechanics', workmen's, repairmen's, warehousemen's, carriers' or other like liens arising or incurred in the ordinary course of the Project, and (c) other Encumbrances which, individually or in the aggregate, are not material.

1.14 "Person" means an association, a corporation, an individual, a partnership, a trust or any other entity or organization, including a Governmental Entity.

1.15 "Principal Employees" means John Sorensen, Michael Mittelstein and Soheila Mirhashami.

1.16 "Royalty Term" means the period commencing with the date of First Commercial Use and ending upon the expiration of the last to expire United States Optex Patent.

1.17 "Taxes" means all taxes of any kind imposed by a Governmental Entity of the United States, and any payments made to another party pursuant to a tax sharing arrangement, indemnity or other similar arrangement, including, without limitation, those on, or measured by or referred to as, income, gross receipts, financial operation, sales, transfer, use, ad valorem, valued added, franchise, profits, license, withholding, payroll (including all contributions or premiums pursuant to industry or governmental social security laws or pursuant to other tax laws and regulations), employment, excise, severance, stamp, occupation, premium, property, transfer or windfall profits taxes, customs, duties or similar fees, assessments or charges of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts imposed by such Governmental Entity with respect to such amounts.

## ARTICLE 2

## TRANSFER OF THE PROJECT

2.1 Sale and Purchase of Assets. Upon the terms and subject to the conditions of this Agreement, Buyer shall purchase from Seller and Seller shall sell, transfer, assign and deliver to Buyer at Closing, all of Seller's interest in and to the following assets and properties (the "Assets"), free and clear of any Encumbrances, other than Permitted Encumbrances:

(a) the rights of Seller under contracts and agreements listed on Schedule 2.1(a) attached hereto (the "Assumed Contracts");

(b) all machinery, apparatus, furniture, materials, tools, dies, molds, supplies and other equipment listed on Schedule 2.1(b) attached hereto (the "Equipment");

(c) all inventory relating to Catarex Handpieces including, without limitation, raw materials, work in process, and component parts of Catarex Handpieces, wherever located (the "Inventory");

(d) all credits, prepaid expenses, advance payments, deposits, deferred charges, and other current and non-current assets owned by Seller which relate to the Project, as listed on Schedule 2.1.(d) attached hereto ("Other Current Assets");

(e) all of the intangible property owned by Seller and all of Seller's interest in any intangible property licensed to Seller that in each case relates to the Project, including (i) the Optex Patents and other patents and trademarks (and patent and trademark applications) together with all divisions, continuations, continuations-in-part, substitutions, reissues, extensions and foreign counterparts, all as listed on Schedule 2.1(e) attached hereto (the "Patents and Trademarks"); (ii) all trade names, trade name licenses and applications, copyrights, copyright licenses and applications, Know-how, trade secrets, formulae, computer software, processes, technology, innovations,

inventions, (including Optex Inventions) manufacturing drawings, engineering drawings, product designs and product patterns used or to be used in connection with the Project and/or necessary or desirable to complete the Project; (iii) all Permits and other governmental authorizations necessary to carry on the Project (to the extent such Permits and authorizations are assignable); and (iv) other intangible property rights owned by Seller on the Closing Date, to the extent the foregoing are related to the Project and/or are necessary or desirable to complete the Project (collectively, the "Intangible Property"); and

(f) all catalogs, product literature, manuals, advertising materials, promotional materials, supplier lists and other books and records (except Seller's corporate records) owned by Seller on the Closing Date and which relate, primarily, to the Project, except to the extent Seller is required by law to retain the same.

2.2 Excluded Assets. Buyer expressly understands and agrees that all assets and properties of Seller other than the Assets shall be excluded from the transactions contemplated hereby.

2.3 Assumption of Liabilities. Upon the terms and subject to the conditions of this Agreement, Buyer agrees, effective at the time of Closing, to assume the liabilities and obligations of Seller arising from and after the Closing Date under the Assumed Contracts (the "Assumed Liabilities"). Except for the Assumed Liabilities, Buyer is not assuming and shall have no obligation to discharge, pay, perform or be liable for, any debts, liabilities, claims or obligations of Seller of any nature whatsoever (including, without limitation, severance obligations to any employees of Seller), whether absolute or contingent, known or unknown, direct or indirect, asserted or unasserted on or after the date hereof.

2.4 Passage of Title and Risk of Loss. Title and risk of Loss with respect to the Assets shall pass to Buyer at Closing except for those Assets in the physical possession of Seller which are not located at 27452 Calle Arroyo, San Juan Capistrano, CA 92675, in which case the risk of Loss shall transfer upon delivery thereof to Buyer.

## ARTICLE 3

## PURCHASE PRICE AND PAYMENT

3.1 Purchase Price. The total purchase price for the Assets to be paid to Seller by Buyer shall be Three Million Dollars ($3,000,000), subject to Section 3.3 below (the "Purchase Price"). All payments by Buyer hereunder shall be made by electronic transfer to a bank account designated by Seller. One Million Dollars ($1,000,000) of the Purchase Price shall be creditable against Buyer's obligation to pay Royalties and Minimum Royalties (as hereinafter defined at Sections 3.3.2 and 7.4, respectively), at the rate of thirty percent (30%) of any such Royalties and Minimum Royalties when due.

3.2 Allocation of Purchase Price. The Purchase Price shall be allocated among the Assets as determined by Buyer and provided to Seller on or before Closing.

3.3 Additional Purchase Price. In addition to the Purchase Price payable at Closing, Buyer shall pay Seller additional consideration for the Assets, as follows:

3.3.1 Japanese Regulatory Approval. One Million Dollars ($1,000,000) if and only if Buyer or any Affiliate of Buyer receives Japanese Regulatory Approval.

3.3.2 Royalties. Buyer shall pay Seller royalties ("Royalties") during the Royalty Term as follows:

(a) Buyer shall pay Seller an earned royalty of seven percent (7%) of Net Sales of Catarex Products. For the purpose of Royalty calculations, the Net Sales price of the Catarex/Millennium Unit shall be deemed to be $25,000 for markets where Buyer has direct sales and $20,000 where Buyer sells through unaffiliated distributors. For purposes of determining the Net Sales of Catarex Consumables the Parties shall, on an annual basis in advance of the year for which prices are to apply, agree in good faith on the percentage of the Net Sales prices for Catarex Combination Products to be allocated to the Catarex Consumables included therein, which percentage(s) shall reflect an appropriate allocation of the Net Sales price of the Catarex Combination Product based upon the costs of and profit margins for each product item contained in a Catarex Combination Product.

(b) Buyer shall pay Seller an additional royalty of three percent (3%) of the product of (A) Net Sales of Catarex Consumables in Key Markets, times (B) the then fractional market share of Liquid Polymer Lenses in the United States intraocular lens market, as measured by published Deloitte & Touche (or similar third party surveys if unavailable) survey of such market; unless during such calendar quarter an alternative cataract removal system which enables the use of accommodating liquid polymer lens implantation has achieved greater than ten percent (10%) market share of sales of cataract removal systems in the United States as measured by published surveys of such market. Should a published survey not be available to the parties, market share shall be determined by other published and mutually agreeable market share data, or in the absence of such market share data then as reasonably determined by the parties in good faith.

(c) Within forty-five (45) days after the end of each calendar quarter, Buyer, Buyer's Affiliates and/or Buyer's sublicensee(s) as the case may be, shall pay to Seller the Royalty payment due for such quarter in U.S. dollars.

(d) For any sales made in currencies other than the U.S. dollar, such Royalty shall be converted from the currency in which the sale was made into U.S. dollars at the exchange rate published in the Wall Street Journal for the last business day of the calendar quarter during which such sale occurs.

(e) Together with the delivery of each such Royalty payment, Buyer, Buyer's Affiliates and/or Buyer's sublicensee(s), as the case may be, shall deliver to Seller a written accounting showing its computation of Royalties due under this Agreement for

such quarter. Such accounting shall set forth gross sales, Net Sales, an account of the calculation of Net Sales, the exchange rate applied, if any, and the total Royalties due for the quarter in question.

(f) Buyer shall keep full and accurate books and records reflecting the Royalties on Net Sales and the data used in arriving at Net Sales and the amount of Royalties payable to Seller hereunder for no less than one (1) year after the end of each such quarter. Buyer shall permit Seller, once within any twelve (12) month period, at Seller's expense, to have such books and records examined by independent certified public accountants retained by Seller and reasonably acceptable to Buyer, during regular business hours upon reasonable advance notice, but not later than one (1) year following the rendering of any such reports, accounting and payments. Such independent accountants shall keep confidential any information obtained during such examination. If such examination discloses a discrepancy of five percent (5%) or more in any amount due to Seller under this Agreement, Buyer shall reimburse Seller for the out-of-pocket cost of such examination, including without limitation any reasonable professional fees and expenses incurred by Seller.

(g) Any amount not paid when due under this Agreement shall bear interest at one and one-half percent (1.5%) per month, compounded monthly or, if less, the highest amount permissible under applicable law; provided, however, that no such interest shall be payable with respect to any amounts subject to a bona fide dispute between Seller and Buyer.

3.4 Tax. All payments made to Seller by Buyer hereunder are expressed net of any Taxes that may be payable, and Seller and Buyer shall be jointly responsible for any Tax payable thereon.

## ARTICLE 4

## CLOSING

4.1 Closing Date. The closing of the transactions contemplated under Section 2 (the "Closing") shall take place at such place as agreed between the parties and as promptly as possible after Seller's performance of its obligations under Section 8.3.5, subject to satisfaction or waiver of the other conditions set forth in Article 8 below. The day of Closing shall be referred to herein as the "Closing Date."

4.2 Closing Deliverables.

4.2.1 Items to be Delivered at the Closing by Seller. At the Closing, Seller shall deliver or cause to be delivered to Buyer:

(a) Instruments of sale and assignment in form and substance reasonably satisfactory to Buyer and its counsel evidencing and effecting the sale and transfer to Buyer of the Assets.

(b) Deliverables described in Section 8.3 to the extent that any such deliverables have not been delivered to Buyer as of the Closing Date.

4.2.2 Items to be Delivered at the Closing by Buyer. At the Closing, Buyer shall deliver to Seller:

(a) The Purchase Price.

(b) Instruments of Assumption in form and substance reasonably satisfactory to Seller and its counsel evidencing and effecting the assumption by Buyer of the Assumed Liabilities.

(c) Deliverables described in Section 8.2 to the extent that any such deliverables have not been delivered to Seller as of the Closing Date.

## ARTICLE 5

## REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties of Seller and Atlantic. Seller and Atlantic represent and warrant to Buyer as of the date hereof (except as otherwise indicated) as follows:

(a) Organization and Related Matters. Seller is a corporation duly organized and validly existing under the laws of Delaware. Seller has all necessary corporate power and authority to execute, deliver and perform this Agreement.

(b) Authorization; No Conflicts. The execution, delivery and performance of this Agreement and any agreement related hereto has been duly and validly authorized by Seller. This Agreement constitutes the legal, valid and binding obligations of Seller and Atlantic, enforceable against it in accordance with its terms, except as enforceability is limited by (1) any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally, or (2) general principles of equity, whether considered in a proceeding in equity or at law. The execution, delivery and performance by Seller and Atlantic of this Agreement and transactions contemplated herein will not (i) conflict with or result in a breach or violation of any term or provision of, or (with or without notice or passage of time, or both) constitute a breach or default under, the charter documents or bylaws of Seller or Atlantic or any Assumed Contract, (ii) result in the imposition of any Encumbrance against any of the Assets, (iii) violate any applicable Law, or (iv) violate any Order of any Governmental Entity. The execution, delivery and performance by Seller and Atlantic of this Agreement and the transactions contemplated hereby will not require filing or registration with, or the issuance of any Permit by, any third party or Governmental Entity under the terms of any applicable Law or contracts to which Seller is a party.

(c) Title to and Condition of the Assets. Seller has, and is conveying to Buyer under this Agreement, good and marketable title to the Assets, and such Assets are free and clear of all Encumbrances except Permitted Encumbrances. Seller has all right, power and authority to sell, convey, assign, transfer and deliver the Assets to Buyer in

accordance with the terms of this Agreement. The Equipment has been regularly and appropriately maintained and repaired in accordance with the manufacturers' specifications, except where failure to do so would not reasonably be expected to have a material adverse effect on the Equipment, and is in good condition and repair (normal wear and tear accepted). Any machinery, apparatus, materials, tools, dies, molds or supplies of Seller upon which successful completion of the Project depends is included in the Equipment.

(d) No Other Liabilities or Contingencies. Except for the Assumed Liabilities and the costs referred to in Section 6.5, Seller has no liabilities of any nature, whether accrued, unmatured, absolute, contingent or otherwise, and whether due or to become due, probable of assertion or not, relating to the Project.

(e) Legal Proceedings. There is no Action pending or, to the knowledge of Seller, threatened in writing, against or affecting Seller, the Assets or any aspect of the Project that individually or when aggregated with one or more other Actions has or might reasonably be expected to have a material adverse effect on the Project, the Assets (or the use, operation or value thereof), the Assumed Contracts, Seller's ability to perform this Agreement or any aspect of the transactions contemplated by this Agreement. There is no Order to which Seller is subject that has or might reasonably be expected to have a material adverse effect on the Project, the Assets (or the use, operation or value thereof), the Assumed Contracts, Seller's ability to perform this Agreement or any aspect of the transactions contemplated by this Agreement.

(f) Compliance. Since January 1, 1998, the Seller has conducted the Project in material compliance with applicable Laws.

(g) Permits. Seller holds all Permits that are required by any applicable Law to permit it to conduct the Project as now conducted and use the Assets as they are now used, except for Permits the absence of which would not reasonably be expected to have a material adverse effect on the Project, and all such Permits are valid and in full force and effect and are listed on Schedule 5.1(g) attached hereto. No suspension, cancellation or termination of any of such Permits is threatened or imminent.

(h) Assumed Contracts. Each Assumed Contract was entered into in the ordinary course of the Project and on an arms-length basis. Copies of the Assumed Contracts, including all amendments and supplements, have been delivered to Buyer. Each Assumed Contract is valid and binding and, except as disclosed on Schedule 5.1(h) attached hereto, upon assignment by Seller pursuant to this Agreement, will be enforceable by Buyer, without the requirement of any third party consent, except as enforceability is limited by (1) any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally, or (2) general principles of equity, whether considered in a proceeding in equity or at law. Other than the Assumed Contracts, Seller is not a party to any contracts or agreements that are material to the Project.

(i) Intangible Property. Other than the Patents and Trademarks, Seller has no interest in any patents and trademarks (or patent and trademark applications) that relate to the Project. Seller has ownership of, and the right to assign, free and clear of any Encumbrances, all the Intangible Property, the absence of which would have a material adverse effect on the Project. Seller does not use any of the Intangible Property by consent of any Person and is not required to and does not make any payments to others with respect thereto. Seller has in all material respects performed all obligations required to be performed by it, and Seller is not in default in any material respect under any Assumed Contract relating to any of the Intangible Property. Seller has not received any notice to the effect (or are not otherwise aware) that the Intangible Property, or any use by Seller in connection with the Project of any of the Intangible Property, conflicts with or infringes (or allegedly conflicts with or infringes) the rights of any other Person. Other than disclosure in connection with the prosecution of any patent applications, Seller has maintained the Optex Inventions and Know-How in confidence and has not disclosed the same to any third party without that third party being under an obligation to maintain the confidential nature of the Optex Inventions and Know-How.

(j) Inventory. All Inventory as of the Closing Date is set forth on Schedule 5.1(j) attached hereto, and each item is in good condition, conforms to applicable specifications and may be used for the purposes intended.

(k) Corporate Opportunities. Other than in connection with the Project, neither Seller, Atlantic nor, to the knowledge of Seller or Atlantic, any of the Principal Employees is engaged, directly or indirectly, through an ownership interest or in some other capacity, in the research, development, production, marketing or selling of products or services within the Field and/or utilizing Know-How or Optex Inventions.

5.2 Representations and Warranties of Buyer. Buyer represents and warrants to Seller as of the date hereof (except as otherwise indicated) as follows:

(a) Organization and Related Matters. Buyer is a corporation duly organized and validly existing under the laws of New York. Buyer has all necessary corporate power and authority to conduct its business as now conducted. Buyer has the necessary corporate power and authority to execute, deliver and perform this Agreement and any agreement related hereto. BLS is a corporation duly organized and validly existing under the laws of Delaware. BLS has all necessary corporate power and authority to conduct its business as now conducted. BLS has the necessary corporate power and authority to execute, deliver and perform this Agreement and any agreement related hereto.

(b) Authorization; No Conflicts. The execution, delivery and performance of this Agreement and any agreement related hereto has been duly and validly authorized by Buyer and BLS. This Agreement constitutes the legal, valid and binding obligations of Buyer and BLS, enforceable against each of them in accordance with its terms. The execution, delivery and performance of this Agreement by Buyer and BLS will not (i) conflict with or result in a breach or violation of any term or provision of, or (with or without notice or passage of time, or both) constitute a breach or default under, the respective charter documents or bylaws of Buyer and BLS, (ii) any contract to which

Buyer or BLS is a party that is material to the financial condition, results of operations or conduct of Buyer's or BLS's business, respectively, (iii) violate any applicable Law, or (iv) violate any Order of any Governmental Entity. The execution, delivery and performance by Buyer and BLS of this Agreement and the transactions contemplated hereby will not require filing or registration with, or the issuance of any Permit by, any third party or Governmental Entity under the terms of any applicable Law or contracts to which Buyer or BLS is a party.

(c) Legal Proceedings. There is no Action pending or, to the knowledge of Buyer, threatened in writing, against or affecting Buyer or BLS that individually or when aggregated with one or more other Actions has or might be reasonably be expected to have a material adverse effect on any aspect of the transactions contemplated by this Agreement, and there is no Order to which Buyer or BLS is subject that has or might reasonably be expected to have a material adverse effect on any aspect of the transactions contemplated by this Agreement.

5.3 Survival of Representations and Warranties. The representations and warranties contained in or made pursuant to this Agreement shall survive Closing and expire on December 31, 2002.

## ARTICLE 6

## CONDUCT OF PROJECT

During the period from the date of this Agreement and continuing until the Closing Date, Seller agrees as follows:

6.1 Regular Course of Business. Except as otherwise provided herein, Seller agrees to carry on its business in its usual, regular and ordinary course in substantially the same manner as heretofore conducted, and, to the extent consistent with such business, use all reasonable efforts to preserve intact its present business organization, keep available the services of the Principal Employees, and preserve its relationships with others having business dealings with Seller.

6.2 Insurance. Seller will maintain in effect all insurance currently maintained or renew such insurance with reasonably comparable policies then available.

6.3 No Defaults. Seller will not commit, omit or permit any act or omission to act, that will cause a breach of any material contract or commitment.

6.4 Compliance With Laws. Seller will comply with the requirements of all applicable Laws, rules, regulations and orders of any Governmental Entity noncompliance with which would have a material adverse effect on the business, properties, assets, operations or condition (financial or otherwise) of Seller.

6.5 Catarex Handpieces.

(a) Seller agrees to exercise its best efforts to produce and deliver to Buyer 2400 Catarex Handpieces conforming to the applicable specifications as soon as commercially practicable. Seller agrees that, notwithstanding anything contained in the Development Agreement to the contrary, Buyer shall have no remaining obligation under the Development Agreement other than (i) an obligation to pay Seller an amount equal to the sum of 125% of (x) costs (as defined at Section 4.6.2 of the Development Agreement) incurred by Seller since December 31, 2000 in connection with the production of 2400 Catarex Handpieces and (y) $36,153.43; provided, however, that in no event shall Buyer be responsible for paying Seller an aggregate amount of such costs in excess of $772,442.57, and (ii) subject to Seller's obligation to exercise diligent efforts to cancel any open purchase orders pertaining to Phase II, those costs (as defined at Section 4.6.2 of the Development Agreement) incurred by Seller in connection therewith, but in no event shall Buyer be responsible for paying Seller any amounts in excess of $381,375.22.

(b) Seller shall provide Buyer with a written report and invoice of all costs (as defined at Section 4.6.2 of the Development Agreement) incurred by Seller during the month of January, 2001 in connection with the production of 2400 Catarex Handpieces along with any supporting documentation Buyer reasonably requests. Subject to Section 4.6.3 of the Development Agreement, Buyer agrees to pay to Seller within three (3) business days of receipt from Seller of that written report and invoice an amount equal to 125% of (x) such costs and (y) $36,153.43 (collectively, the "January Invoice Amount"); provided, however, that Buyer shall not be responsible for paying Seller any portion of the January Invoice Amount which exceeds $610,879.39 (the "January Invoice Ceiling"), except as provided for in Section 6.5(c).

(c) Subject to the limitation described in Section 6.5(a), following Buyer's receipt of 2400 Catarex Handpieces which conform to the specifications then in effect, Seller shall submit (i) monthly invoices to Buyer for 125% of costs (as defined in Section 4.6.2 of the Development Agreement) incurred after January 31, 2001 in connection with the production of 2400 Catarex Handpieces and (ii) an invoice for an amount equal to the January Invoice Amount minus the January Invoice Ceiling. All such invoices shall be payable within three (3) business days of receipt by Buyer, subject to all of the terms and conditions of Section 4.6.3 of the Development Agreement;

## ARTICLE 7

## ADDITIONAL AGREEMENTS

7.1 Access to Information. Seller will on reasonable advance notice afford to Buyer and to Buyer's accountants, counsel and other representatives, (provided that each such person shall sign a visitor's confidentiality agreement in form and substance reasonably acceptable to Seller) reasonable access during normal business hours during the period prior to the Closing Date to all properties, books, documents and records relating to Seller and the Project, and Seller will use their reasonable efforts to furnish promptly to Buyer all information concerning the business, properties and personnel of Seller as Buyer may reasonably request.

7.2 Additional Agreements; Further Actions. Subject to the terms and conditions of this Agreement, each of the parties hereto agrees to use all reasonable efforts to take, or cause to be taken, all action and to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement, including using all reasonable efforts to obtain all necessary waivers, consents and approvals, to give all notices and to effect all necessary registrations and filings. If at any time after the Closing Date any further action is necessary or desirable to carry out the purposes of this Agreement, Seller and Buyer will use their reasonable efforts to take such action.

7.3 Notice of Developments. Seller will give prompt written notice to Buyer, and Buyer will give prompt written notice to Seller, of any adverse development causing a breach of any representations and warranties of Seller and Buyer, respectively, hereunder.

7.4 Minimum Royalties. Buyer agrees that, notwithstanding anything contained in Section 3.3.2 to the contrary, during the three (3) year period commencing on the earlier to occur of January 1, 2004 or First Commercial Use, Buyer shall pay to Seller Royalties in the following amounts, subject to the credit described in Section 3.1 hereof (the "Minimum Royalties"); it being understood and agreed that any Royalties that accrue upon Net Sales and are paid under Section 3.3.2 during the following periods shall be credited to Buyer's obligation to pay Minimum Royalties for such periods:

| | |
|---|---|
| First 12 months | $90,000.00 |
| Second 12 months | $350,000.00 |
| Third 12 months | $750,000.00 |

Notwithstanding the foregoing, in the event that Buyer fails in whole or in part to satisfy its obligation to pay Seller the Minimum Royalties within the forty-five (45) day period following each twelve (12) month period, and without regard as to whether such Minimum Royalties accrued based upon Net Sales under Section 3.3.2, Seller shall be entitled to receive, and Buyer shall grant to Seller, a fully paid, nonexclusive, sub-licensable license of the Optex Patents and Know-How. Seller agrees that Buyer's grant of such license shall fully discharge and satisfy its obligations to pay Seller the Minimum Royalties, and Seller agrees to accept such license as Seller's sole and exclusive remedy against Buyer for its failure to satisfy the Minimum Royalties.

7.5 Restrictive Covenant.

7.5.1 Restrictions on Activities. As an inducement to Buyer to enter into this Agreement, Seller and Atlantic agree that for a period of two (2) years after the Closing Date, Seller and Atlantic will not, directly or indirectly, for their own benefit or as agent for another, carry on or participate in any activities within the Field or otherwise render services to any other business enterprise within the Field.

7.5.2 Special Remedies and Enforcement. Seller and Atlantic recognize and agree that a breach by Seller and Atlantic of the covenant set forth in Section 7.5.1 could cause irreparable harm to Buyer, that Buyer's remedies at law in the event of such breach would be inadequate, and that, accordingly, in the event of such breach a restraining order or injunction or both may be issued against Seller and Atlantic, in addition to any other rights and remedies which are available to Buyer. If the remedies provided for in this Section 7.5.2 are not permitted by the Laws of any jurisdiction in which Buyer seeks enforcement hereof, this Section 7.5.2 shall be limited to the extent required to permit enforcement under such Laws.

7.6 Nondisclosure of Proprietary Data. Neither Buyer or BLS (prior to Closing), Seller, Atlantic nor any of their respective representatives shall, at any time, make use of, divulge or otherwise disclose, directly or indirectly, any confidential Intangible Property.

7.7 Abandonment of the Project. If at any time prior to or following First Commercial Use, Buyer provides written notice to Seller of its election to abandon the Project ("Abandonment"), Seller shall have the option to re-acquire the Assets (the "Re-Acquired Assets") from Buyer upon entering into a bona fide agreement with an unaffiliated third party ("Third Party") under which a Third Party agrees to commercialize a Catarex Product. In the event that Seller wishes to exercise said option, Seller shall deliver to Buyer a written notice of election and the parties shall agree on a time and place for a closing of the transaction. In connection with such closing, Seller shall agree in writing to pay Buyer a purchase price for the Re-Acquired Assets equal to the aggregate payments received by Seller from Buyer under Sections 3.1, 3.3.1 and 7.4 hereof (minus, in the case of Section 7.4, Royalties accrued and paid upon Net Sales under Section 3.3.2); provided that Seller shall be entitled to pay Buyer at the rate of fifty percent (50%) of any and all amounts received from such Third Party as and when such amounts are received by Seller. Notwithstanding the foregoing, an Abandonment shall be deemed to have occurred if (i) Buyer fails to satisfy any of the following milestones or (ii) ceases selling Catarex Products after First Commercial Use:

(a) Completion by March 31, 2002 of a clinical study designed by Buyer to assess the functionality of the Catarex Handpiece in human cataract surgery.

(b) Production by January 31, 2003 of a prototype Catarex Handpiece (the "Redesigned Catarex Handpiece") that satisfies Buyer's manufacturing cost specifications.

(c) Completion of a Clinical Demonstration using the Redesigned Catarex Handpiece by June 30, 2003.

(d) Submission of 510(k) for the Redesigned Catarex Handpiece by September 30, 2003.

In the event that Seller fails to satisfy the condition contained in Section 8.3.5 hereof by February 28, 2001 (the "Delivery Date"), the foregoing milestone completion dates shall be extended by one (1) day for each day that passes after the Delivery Date until the condition contained in Section 8.3.5 hereof is satisfied.

7.8 Patent Prosecution and Maintenance. From and after Closing until the earlier of (i) consummation of any purchase of the Re-Acquired Assets pursuant to Section 7.7 or (ii) six (6) months following an Abandonment, Buyer shall, at its expense, prosecute and maintain the Optex Patents in Key Markets. Schedule 7.8 attached hereto constitutes a restated and amended version of Exhibit B to the Development Agreement.

7.9 Standstill. Atlantic and Seller agree not to offer for sale or participate in negotiations, discussions or due diligence with respect to the sale of Seller or the Assets for a period of ninety (90) days following December 28, 2000.

7.10 Right of First Negotiation. Seller hereby grants to Buyer a first right to negotiate ("First Right of Negotiation") an agreement to manufacture, license, distribute and/or sell (collectively, to "Commercialize") any product or service developed by Seller related to cataract surgery outside of the Field (a "New Product"). If at anytime following Closing, Seller intends to Commercialize any New Product, Seller shall first give written notice ("Negotiation Notice") to Buyer of its intention. Buyer will have a period of ninety (90) days following the receipt of the Negotiation Notice to conduct a due diligence investigation relating to any such New Product and to notify Seller in writing of Buyer's election to exercise its First Right of Negotiation ("Notice of Election"). Upon timely delivery of the Notice of Election by Buyer, the parties shall, for a period of not less than ninety (90) days (the "Negotiation Period") negotiate in good faith the terms and conditions of a definitive agreement, which agreement shall contain terms and conditions generally contained in agreements of such type. If the parties are unable to reach an agreement and execute such definitive agreement during the Negotiation Period, Seller may negotiate and execute an agreement with any third party to Commercialize such New Product; provided, however, that for a period of twelve (12) months following the expiration of the Negotiation Period, Seller shall not (except with the prior written consent of Buyer) enter into an agreement to Commercialize such New Product on more favorable terms and conditions than those last offered in writing to Seller by Buyer during the Negotiation Period. In the event that Seller fails to enter into an agreement with a third party to Commercialize such New Product within a period of twelve (12) months following the expiration of the Negotiation Period, Seller shall be required to offer Buyer another First Right of Negotiation with respect thereto, and the foregoing process shall be repeated.

ARTICLE 8

CONDITIONS PRECEDENT

8.1 Conditions to Each Party's Obligation. The obligations of Seller and Buyer to consummate the closing of the transactions contemplated hereby are subject to the satisfaction, at or before the Closing Date, of each of the following conditions:

8.1.1 No Injunctions; Orders. No Order shall have been issued by any Governmental Entity nor shall any Law be promulgated or enacted by any Governmental Entity that prevents the consummation of the transactions contemplated hereby.

8.1.2 No Litigation. No action or proceeding before any Governmental Entity shall be pending against Seller or Buyer seeking to prevent or delay the transactions contemplated hereby or challenging any of the terms or provisions of this Agreement or seeking material damages in connection therewith.

8.2 Conditions to Seller's Obligations. The obligations of Seller to consummate the closing of the transactions contemplated hereby are subject to the satisfaction on or prior to the day of Closing, of the following conditions, in addition to the other required deliveries:

8.2.1 Representations and Warranties True. The representations and warranties of Buyer shall be in all material respects true and correct as of the Closing Date as though such representations and warranties were made at and as of such date, except for changes expressly permitted or contemplated by this Agreement.

8.2.2 Performance. Buyer shall have performed and complied in all material respects with all agreements, obligations and conditions required by this Agreement to be performed or complied with by it on or prior to the Closing Date.

8.2.3 Rudick Consulting Agreement. Buyer shall have executed and delivered a consulting and non-competition agreement with A. Joseph Rudick, Jr., M.D., ("Rudick") which shall provide for a term that expires upon the earlier to occur of (i) abandonment of the Project by Buyer, (ii) three (3) years or (iii) First Commercial Use, at the rate of $5,000.00 per month.

8.3 Conditions to Buyer's Obligations. The obligations of Buyer to consummate the closing of the transactions contemplated hereby are subject to the satisfaction on or prior to the date of Closing, of the following conditions, in addition to the other required deliveries:

8.3.1 Representations and Warranties True. The representations and warranties of Seller shall be in all material respects true and correct as of the Closing Date as though such representations and warranties were made at and as of such date, except for changes expressly permitted or contemplated by this Agreement.

8.3.2 Performance. Seller shall have performed and complied in all material respects with all agreements, obligations and conditions required by this Agreement to be performed or complied with by Seller on or prior to the Closing Date.

8.3.3 Professional Services Agreement. Neomedix, Inc. ("Neomedix") shall have executed and delivered to Buyer a Professional Services Agreement in form and substance reasonably satisfactory to Buyer under which Neomedix shall (i) make available to Buyer the services of the Principal Employees, (ii) grant to Buyer a First Right of Negotiation with respect to New Products developed by Neomedix and (iii) agree to a covenant of a non-competition in the Field for a period of two (2) years after the Closing Date.

8.3.4 Assignment of Know-How and Inventions. Each of the Principal Employees shall have assigned to Buyer any Optex Inventions or Know-How in their possession or subject to their control pursuant to an Assignment of Know-How and Inventions Agreement in form and substance reasonably satisfactory to Buyer and its counsel.

8.3.5 Delivery of Catarex Handpieces. Seller shall have delivered to Buyer 2400 Catarex Handpieces which conform to the specifications then in effect.

8.3.6 Board Approval. The transactions contemplated hereby shall have received approval of the Buyer's Board of Directors.

8.3.7 Consents. Any consents necessary to effect the transfer by Seller to Buyer of any of the Assets shall have been obtained in writing.

8.3.8 Due Diligence. Buyer shall not, in the course of its on-going due diligence investigation, have discovered information not previously disclosed by Seller or Atlantic that Buyer reasonably believes has or is likely to have a material adverse effect on the Assets and/or the viability of the Project.

## ARTICLE 9

## TERMINATION

9.1 Grounds for Termination. This Agreement may be terminated at any time prior to the Closing Date in accordance with the following provisions:

9.1.1 Mutual Consent. This Agreement may be terminated by the written agreement of Buyer and Seller.

9.1.2 Breach of Warranties or Covenants; Misrepresentation. This Agreement may be terminated as follows:

(a) by Buyer if any representation of Seller and Atlantic set forth in this Agreement was materially inaccurate when made or becomes inaccurate such that the condition set forth in Section 8.3.1 would not be satisfied;

(b) by Seller if any representation of Buyer set forth in this Agreement was materially inaccurate when made or becomes inaccurate such that the condition set forth in Section 8.2.1 would not be satisfied;

(c) by Buyer if Seller, after written notice and reasonable opportunity to cure, fails to perform or comply with any of the obligations that it is required to perform or to comply with under this Agreement such that the condition set forth in Section 8.3.2 would not be satisfied; and

(d) by Seller if Buyer, after written notice and reasonable opportunity to cure, fails to perform or comply with any of the obligations that it is required to perform or to comply with under this Agreement such that the condition set forth in Section 8.2.2 would not be satisfied.

9.1.3 Expiration Date. This Agreement may be terminated by Buyer or Seller if the Closing shall not have been consummated on or before March 30, 2001, except that the right to terminate this Agreement pursuant to this Section 9.1.3 will not be available to any party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or prior to that date.

9.2 Waiver. Either party hereto may, to the extent legally allowed:

(i) extend the time for the performance of any of the obligations or other acts of the other parties;

(ii) waive any inaccuracies in the representations and warranties made by the other party; or

(iii) waive compliance with any of the agreements or conditions for the benefit of such party. No such agreement shall be effective unless it is in writing and it is signed by the parties to be bound.

9.3 Effective Termination. Upon the termination of this Agreement pursuant to Section 9.1, all further obligations of the parties under this Agreement shall terminate without further liability of any party to the other.

## ARTICLE 10

## INDEMNIFICATION

10.1 Obligations of Seller and Atlantic. Seller and Atlantic agree to indemnify and hold harmless Buyer and its directors, officers, employees, Affiliates, agents, representatives and assigns, from and against any and all Losses of Buyer, directly or indirectly, as a result of, in connection with, or based upon or arising from any of the following: (a) any inaccuracy in any of the representations made by Atlantic and Seller in this Agreement or breach or non-performance of any of the obligations of Seller and Atlantic pursuant to this Agreement; and (b) any liabilities not expressly assumed by Buyer pursuant to Section 2.3. Seller agrees to reimburse the Indemnified Party promptly upon demand for any unreimbursed payment made or Loss suffered by such Indemnified Party at any time after the Closing Date in respect of any Loss to which the foregoing indemnity relates. Notwithstanding anything contained in this Section 10.1 to the contrary, Seller and Atlantic shall not be liable for any indemnity amounts in respect of Losses under this Section 10.1 (excluding Losses resulting from a breach of any monetary obligation, or any intentional breach of any non-monetary obligation, to Buyer which, in the case of non-monetary obligations, remains uncured after reasonable notice) unless the amount of such Losses exceeds $100,000 in the aggregate, in which event Seller and Atlantic shall indemnify and hold harmless Buyer and its directors, officers, employees, Affiliates, agents, representatives and assigns from and against all Losses that exceed $100,000. The obligations of Seller and Atlantic to indemnify Buyer for Losses incurred pursuant to this Section 10.1 (excluding Losses resulting from a breach of any

monetary obligation, or any intentional breach of any non-monetary obligation, to Buyer which, in the case of non-monetary obligations, remains uncured after reasonable notice) shall be limited to an aggregate maximum amount equal to the Purchase Price, including the additional consideration described in Section 3.3.

10.2 Obligations of Buyer. Buyer agrees to indemnify and hold harmless Seller and its directors, officers, employees, Affiliates, agents, representatives and assigns from and against any and all Losses of Seller, directly or indirectly, as a result of, in connection with, or based upon or arising from any of the following: (a) any inaccuracy in any of the representations made by Buyer in this Agreement or breach or non-performance of any of the obligations made by Buyer in or pursuant to this Agreement; and (b) any product liability actions relating to the Project which may arise following Closing except to the extent attributable to the acts or omissions of Seller or Atlantic. Buyer agrees to reimburse the Indemnified Party promptly upon demand for any unreimbursed payment made or Loss suffered by the Indemnified Party at any time after the Closing Date in respect of any Loss to which the foregoing indemnity relates

10.3 Procedure.

(a) Notice of Loss. The Indemnified Party under Sections 10.1 and 10.2 above with respect to any Loss shall give prompt notice thereof to the Indemnifying Party.

(b) Defense. In the event any Person not a party to this Agreement shall make a demand or claim or file or threaten to file or continue any lawsuit, which demand, claim or lawsuit may result in liability to an Indemnified Party in respect of matters embraced by the indemnity under this Agreement, or in the event that a potential Loss, damage or expense comes to the attention of Buyer or Seller in respect of matters covered by the indemnity under this Agreement, then the party receiving notice or becoming aware of such event shall promptly notify the other party of the demand, claim or lawsuit. Within ten days after notice by the Indemnified Party (the "Notice") to the Indemnifying Party of such demand, claim or lawsuit, except as provided in the next sentence, the Indemnifying Party shall have the option, at its sole cost and expense, to retain counsel for the Indemnified Party to defend any such demand, claim or lawsuit, provided that counsel who will conduct the defense of such demand, claim or lawsuit must be approved by the Indemnified Party, whose approval will not be unreasonably withheld. The Indemnified Party shall have the right, at its own expense, to participate in the defense of any suit, action or proceeding brought against it with respect to which indemnification may be sought hereunder; provided, however, if (i) the named parties to any such proceeding (including any impleaded parties) include both the Indemnifying Party and the Indemnified Party and representation of both parties by the same counsel would be

inappropriate due to actual or potential differing interests between them, (ii) the employment of counsel by such Indemnified Party has been authorized in writing by the Indemnifying Party, or (iii) the Indemnifying Party has not in fact employed counsel to assume the defense of such action within a reasonable time; then, the Indemnified Party shall have the right to retain its own counsel at the sole cost and expense of the Indemnifying Party, which costs and expenses shall be paid by the Indemnifying Party on a current basis. No Indemnified Party, in the defense of any such demand, claim or lawsuit, will consent to entry of any judgment or enter into any settlement without the consent of the Indemnifying Party. If any Indemnified Party is advised by its chosen counsel that there may be one or more legal defenses available to such Indemnified Party which are different from or in addition to those which have been asserted by the Indemnifying Party, at the election of the Indemnified Party, the Indemnifying Party will have the right to continue the defense of such demand, claim or lawsuit on behalf of such Indemnified Party and will reimburse such Indemnified Party and any Person controlling such Indemnified Party on a current basis for the reasonable fees and expenses of any counsel retained by the Indemnified Party under this subparagraph (b) to undertake the defense. In the event that the Indemnifying Party shall fail to respond within ten days after receipt of the Notice, the Indemnified Party may retain counsel and conduct the defense of such demand, claim or lawsuit, as it may in its sole discretion deem proper, at the sole cost and expense of the Indemnifying Party, which costs and expenses shall be paid by the Indemnifying Party on a current basis. Failure to provide Notice shall not limit the rights of such party to indemnification, except to the extent the Indemnifying Party's defense of the action is actually prejudiced by such failure.

10.4 Notice by the Parties. Buyer and Seller agree to notify the other of any liabilities, claims or misrepresentations, breaches or other matters covered by this Section 10 upon discovery or receipt of notice thereof (other than from the other party).

10.5 Survival. This Section 10 shall survive Closing and shall remain in effect until any matter as to which a claim has been asserted by notice to the other party shall is finally terminated or otherwise resolved by the parties or by a court of competent jurisdiction and any amounts payable hereunder are finally determined and paid.

10.6 Time Limitations. If the Closing occurs, Seller and Atlantic will have no liability with respect to any representation made by them in, or any obligation to be performed or complied with by them prior to the Closing Date pursuant to, this Agreement except to the extent that on or before December 31, 2002, Buyer notifies Seller and Atlantic of a claim with respect thereto, specifying the factual basis of that claim in reasonable detail.

10.7 Exclusive Remedy. Each party agrees that its sole and exclusive remedy with respect to any and all claims for monetary damages arising under this Agreement is pursuant to the indemnification provisions set forth in this Article 10.

ARTICLE 11

TERMINATION OF DEVELOPMENT AGREEMENT

Effective as of the Closing, the Development Agreement shall be terminated, cancelled and released in all respects, and all of the respective rights, duties, obligations and liabilities of the parties thereunder shall be terminated, cancelled and released in all respects and shall be of no further force of effect. From and after the Closing Date, no party to the Development Agreement shall have any duty, liability or responsibility whatsoever for the payment of any amount or the performance of any obligations thereunder.

ARTICLE 12

GENERAL PROVISIONS

12.1 Amendment and Waiver. Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by Buyer, Atlantic and Seller, or in the case of a waiver, by the party or parties against whom the waiver is to be effective. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise any other right, power or privilege.

12.2 Headings. The headings in this Agreement are for convenience of reference only and shall be ignored in the construction or interpretation hereof.

12.3 Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by the other parties hereto.

12.4 Parties in Interest. This Agreement will be binding upon and inure to the benefit of each party, and nothing in this Agreement, express or implied, is intended to confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Agreement. Nothing in this Agreement is intended to relieve or discharge the obligation of any third person to any party to this Agreement.

12.5 Notices. Any notice or other communication hereunder must be given in writing and either (a) delivered in person, (b) transmitted by telefacsimile, provided that any notice so given is also mailed as provided in clause (c), or (c) mailed, postage prepaid, as follows:

If to Buyer or BLS:
Bausch & Lomb Surgical, Inc.
3365 Industrial Tree Court Blvd.
St. Louis, MO 63122
Attn: Ash Mahmood,
Vice President, Design and Development

Fax: 636-226-3150

With a copy to:
Bausch & Lomb Incorporated
One Bausch & Lomb Place
Rochester, NY 14604
Attn: Senior Vice President and
General Counsel

Fax: 716-338-8706

If to Atlantic or Seller:
Atlantic Technology Ventures, Inc.
150 Broadway
Suite 1009
New York, New York 10038
Attn: Frederic P. Zotos, Esq.
President

With a copy to:
Kramer Levin Naftalis & Frankel, LLP
919 3rd Ave
New York, NY 10022
Attn: Ezra G. Levin, Esq.

Fax: 212-715-8000

or to such other address or to such other person as any party shall have last designated by notice to the other parties. Each such notice or other communication shall be effective (i) if given by mail, three days after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid, (ii) if given by telefacsimile, when transmitted to the applicable number so specified pursuant to this Section 12.5 provided that appropriate confirmation of receipt is generated by the telefacsimile and a duplicate copy is mailed, postage prepaid, or (iii) if given by any other means, when actually delivered at such address.

12.6 Expenses. Each party shall each pay its own expenses incident to the negotiation, preparation and performance of this Agreement and the transactions contemplated hereby.

12.7 Assignments. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted

assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any party without the prior written consent of the other parties, except that (i) Buyer may assign its rights and obligations to any entity that controls, is controlled by or is under common control with Buyer on condition that it remains liable for any failure of that entity to perform any of its obligations under this Agreement, and (ii) any party may assign its rights and obligations under this Agreement to any entity (other than a competitor of Buyer within the Field) which acquires substantially all of the assets of that party or survives any merger with that party. Nothing contained herein, express or implied, is intended to confer on any Person other than the parties hereto or their respective successors and permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

12.8 Remedies. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available under applicable Laws.

12.9 Representation By Counsel; Interpretation. The parties each acknowledge that each party to this Agreement has been represented by counsel in connection with this Agreement and the transactions contemplated by this Agreement. Accordingly, any rule of Law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the party or parties that drafted it has no application and is expressly waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the intent of the parties.

12.10 Severability. If any provision contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. It is the intention of the parties that if any of the restrictions or covenants contained herein in any way is construed to be too broad or to any extent invalid, if legally possible such provision shall not be construed to be null, void and of no effect but, to the extent such provision would be valid or enforceable under applicable Laws, a court of competent jurisdiction shall construe and interpret or reform such provision to the extent necessary to make it valid and enforceable under such applicable Laws.

12.11 Publicity and Reports. The parties will coordinate all publicity relating to the transactions contemplated by this Agreement, and the parties will not issue any press release, publicity statement or other public notice relating to this Agreement, or the transactions contemplated by this Agreement, without consulting with the other parties except to the extent that independent legal counsel to any party delivers a written opinion to the other parties to the effect that a particular action may be required by applicable Law, in which event the party taking the particular action will give reasonable notice to the other parties and will consult with such other parties regarding such action.

12.12 Governing Law. This Agreement shall be governed in all respects, including validity, interpretation, effect, construction and performance by the laws of New York.

12.13 Entire Agreement. This Agreement contains the entire agreement between the parties hereto with respect to the transactions contemplated herein.

IN WITNESS WHEREOF, the parties hereto have caused this Asset Purchase Agreement to be executed as of the date first above written.

BAUSCH & LOMB INCORPORATED

By: /s/ Stephen C. Mcluski
---
Name: Stephen C. Mcluski
Title: Senior Vice President and Chief Financial Officer

BAUSCH & LOMB SURGICAL, INC.

By: /s/ Stephen C. Mcluski
---
Name: Stephen C. Mcluski
Title: Senior Vice President and Chief Financial Officer

OPTEX OPHTHALMOLOGICS, INC.

By: /s/ A. Joseph Rudick
---
Name: A. Joseph Rudick
Title: President

ATLANTIC TECHNOLOGY VENTURES, INC.

By: /s/ Frederic P. Zotos
---
Name: Frederic P. Zotos
Title: President and Chief Executive Officer

Exhibit A

Attach Development Agreement

Exhibit B

Clinical Demonstration

A clinical trial in patients with cataracts of hardness Grade 1-3 (as defined below) and a separate clinical trial in patients with cataracts of hardness Grade 4+ (as defined below) (together the "Clinical Trials"). The Clinical Trials shall be designed by Buyer and funded by Buyer in order to evaluate the Redesigned Catarex Handpiece relative to ultrasonic phacoemulsification.

The Clinical Trial in cataracts of hardness Grade 1-3 shall be designed to evaluate the following expectations:

- The trial does not raise significant safety considerations or unexpected adverse events.
- The total time the Catarex(TM) probe is activated inside the lens capsule to remove the cataractous lens and cortex material during a procedure is typically 2.5 minutes and, except in unusual circumstances shall not be greater than four (4) minutes.
- The procedure is a single-step (i.e., single probe insertion) procedure unlike phaco, which requires the removal of the phaco probe once the cataract has been fragmented followed by the insertion of a separate irrigation/aspiration probe to remove the lens contents.
- The procedure is a true endocapsular procedure in which the Catarex(TM) probe is inserted into the lens capsule and held relatively stationary.
- Enlargement (i.e., larger than the probe diameter) of the initial capsulorhexis is not required for a successful cataract removal.
- Sculpting, such as is typically performed in phaco, is not required.
- When required, the initial capsulorhexis can be successfully enlarged in order to insert an intraocular lens without requiring extraordinary measures.

The Clinical Trial in cataracts of hardness Grade 4 or higher shall be designed to evaluate the foregoing expectations, except that in a surgical procedure, the cataract and associated cortex material is successfully removed without the necessity for additional equipment in a time substantially equivalent to phaco.

Schedule 2.1(a)
Assumed Contracts

Schedule 2.1(b)
Equipment

Schedule 2.1(d)
Other Current Assets

Schedule 2.1(e)
Patents and Trademarks

Schedule 5.1(d)
Other Liabilities

Schedule 5.1(g)
Permits

Schedule 5.1(h)
Exceptions to Enforceability
of
Assumed Contracts

Schedule 5.1(j)
Inventory

Schedule 7.8
Optex Patents

# AMENDMENT NO. 1 TO
# ASSET PURCHASE AGREEMENT

This Amendment No. 1 (this "Amendment") is dated March 2, 2001, and is between BAUSCH & LOMB INCORPORATED, a New York corporation ("Buyer"), BAUSCH & LOMB SURGICAL, INC., a Delaware corporation ("BLS"), OPTEX OPHTHALMOLOGICS, INC., a Delaware corporation ("Optex"), and ATLANTIC TECHNOLOGY VENTURES, INC., a Delaware corporation ("Atlantic"), and amends the Asset Purchase Agreement dated January 31, 2001, between Buyer, BLS, Optex and Atlantic (the "Agreement"). All terms used but not defined in this Agreement have the meanings ascribed to those terms in the Agreement.

The parties agree as follows:

1. Amendment of Section 3.2. The text of Section 3.2 of the Agreement is hereby deleted in its entirety and replaced with the following:

> Buyer and Seller shall allocate the Purchase Price (and all other capitalizable costs) among the Assets for all purposes (including financial accounting and tax purposes) as follows:

| Items | Price |
|---|---|
| Patents, trademarks and other intangibles | $1,895,185 |
| Prepaid Royalties | $1,000,000 |
| Fixtures | $32,562 |
| Equipment | $72,253 |
| Molds | $0 |
| Inventory | $0 |

2. Molds and Inventory. The parties acknowledge that Buyer has previously purchased pursuant to the Development Agreement all of Optex's molds and inventory.

3. Amendment of Section 7.7. Clauses (a) through (c) of Section 7.7 of the Agreement are hereby amended to read as follows:

> (a) Completion by December 31, 2002, of a clinical study designed by Buyer to assess the functionality of the Catarex Handpiece in human cataract surgery.
>
> (b) Production by June 30, 2003, of a prototype Catarex Handpiece (the "Redesigned Catarex Handpiece") that satisfies Buyer's manufacturing cost specifications.
>
> (c) Completion of a Clinical Demonstration using the Redesigned Catarex Handpiece by September 30, 2003.

4. Amendment of Schedules 2.1(a) and 2.1(b). Schedules 2.1(a) and 2.1(b) of the Agreement are hereby deleted in their entirety and replaced with Schedules 2.1(a) and 2.1(b) attached hereto.

5. Trademark. The parties acknowledge that all right, title, and interest in and to the CATAREX trademark, together with the associated business goodwill, was assigned by Seller to BLS prior to the execution of the Agreement, and that accordingly, no assignment of the CATAREX trademark is necessary to satisfy the terms of the Agreement.

Effective as of the Closing, all rights or licenses, if any granted by Buyer or BLS to Seller pursuant to Section 11.1 of the Development Agreement, as amended, shall be terminated, canceled, and released in all respects. All of the rights, duties, obligations and liabilities of the parties under any such license shall be terminated, canceled, and released in all respects and shall be of no further force and effect, and neither party to such license shall any duty, liability, or responsibility whatsoever for the payment of any amount or the performance of any obligations thereunder.

6. Governing Law. This Amendment is governed by New York law without giving effect to principles of conflict of laws.

7. Execution in Counterparts. This Amendment may be executed simultaneously in two or more counterparts, each of which is an original but all of which together constitute one and the same instrument.

[signature page follows]

The undersigned are signing this Amendment on March 2, 2001.

BAUSCH & LOMB INCORPORATED

By: /s/ Stephen C. McCluski
---
Name: Stephen C. McCluski

Title: Senior Vice President
and Chief Financial Officer

BAUSCH & LOMB SURGICAL, INC.

By: /s/ Stephen C. McCluski
---
Name: Stephen C. McCluski
Title: Senior Vice President
and Chief Financial Officer

OPTEX OPHTHALMOLOGICS, INC.

By: /s/ A. Joseph Rudick
---
Name: A. Joseph Rudick
Title: President

ATLANTIC TECHNOLOGY VENTURES, INC.

By: /s/ Frederic P. Zotos
---
Name: Frederic P. Zotos
Title: Executive Officer

ASSET PURCHASE AGREEMENT

By and Among

ATLANTIC TECHNOLOGY VENTURES, INC.

and

GEMINI TECHNOLOGIES, INC.

as Sellers,

and

IFN, INC.

as Buyer

Dated as of April 23, 2001

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (the "Agreement") is made and entered into as of April __, 2001, by and among Atlantic Technology Ventures, Inc., a Delaware corporation ("Seller Parent"), Gemini Technologies, Inc., a Delaware corporation ("Seller" and together with Seller Parent, the "Sellers"), and IFN, Inc., an Ohio corporation ("Buyer").

Recitals

Seller is engaged in the business of developing and commercializing early-stage biomedical and pharmaceutical technologies, specifically, a novel antisense technology in the area of Functional Genomics that combines the 2'-5'oligoadenylate complex with standard antisense compounds to form a chimeric molecule (the "Business").

Seller holds an exclusive worldwide license to the following U.S. patents and patent applications: USSN #07/965,666 filed on October 21, 1992 (now abandoned), USSN #08/123,449 (CIP of 07/965,666) (now U.S. Patent 5,583,032), USSN 08/458,050 (divisional) (now U.S. Patent 5,677,289) and USSN 08/950,196 (divisional) (allowed), and any divisions, or continuations thereof, all foreign counterpart applications, and any patents issued thereon, or reissues or extensions thereof (the "Patent Rights"), pursuant to that certain License Agreement by and between The Cleveland Clinic Foundation ("CCF") and predecessor-in-interest to Seller, Protena, Inc., dated May 5, 1994 (the "License Agreement").

Seller prepared, filed and prosecuted the following patent applications on behalf of CCF and the National Institutes of Health in connection with its performance of the License Agreement: USSN 08/801,898 (now U.S. Patent 5,998,602), USSN 08/962,690 (CIP of the foregoing) (allowed), and USSN 09/018,125, and foreign counterparts. These patents and applications and any divisions, or continuations thereof, all foreign counterpart applications, and any patents issued thereon, or reissues or extensions thereof are included in the Patent Rights.

CCF and Sellers are engaged in arbitration proceedings pursuant to CCF's

demand for arbitration before the American Arbitration Association, pertaining to a dispute with respect to Seller's performance under the License Agreement (the "Arbitration Demand"). As part of the consideration for Sellers' representations, warranties, covenants and agreements set forth herein, CCF has agreed to withdraw, with prejudice, its Arbitration Demand.

The Seller is operating the Business with the support from the grant 2R44AI46079-02, awarded by the Public Health Services through the National Institutes of Health, entitled "2-5 Antisense Inhibition of Respiratory Synctial Virus," for period from August 15, 2000 to July 31, 2002 (the "PHS Research Grant").

Sellers desire to sell and transfer to Buyer and Buyer desires to purchase from Sellers substantially all of the business and operating assets of Seller comprising, used or associated

with the Business, including the License Agreement and any and all of Seller's interest in the PHS Research Grant, upon the terms and subject to the conditions set forth in this Agreement.

Terms

In consideration of the mutual representations, warranties, covenants, and agreements, and upon the terms and subject to the conditions hereinafter set forth, and intending to be legally bound hereby, the parties do hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Certain Definitions. As used in this Agreement, the following terms shall have the following meanings:

(a) "Affiliate" of any Person means any Person, directly or indirectly controlling, controlled by or under common control with such Person, and includes any Person who is an officer, director or employee of such Person and any Person that would be deemed to be an "affiliate" or an "associate" of such Person, as those terms are defined in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as amended. As used in this definition, "controlling" (including, with its correlative meanings, "controlled by" and "under common control with") means possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities, partnership or other ownership interests, by contract or otherwise).

(b) "Buyer's Capital Expenditures" means the total cumulative value of any capital and other expenditures incurred by Buyer, CCF or their Affiliates in the course of the development and advancement of the Patent Rights, whether in cash or in kind, including any funds awarded to Buyer pursuant to any Federal, state, or local government or private grant, contribution or donation. Notwithstanding the foregoing, Buyer's Capital Expenditures shall not include any funds awarded pursuant to the PHS Research Grant. The value of any in kind contribution shall be deemed to be equal to its fair market value.

(c) "Confidential Information" means all trade secrets, information, data, know-how, systems and procedures of a technical, sensitive or confidential nature in any form relating to Buyer or Seller.

(d) "Damages" means the aggregate amount of all damages, claims, losses, obligations, liabilities (including any governmental penalty or fines), deficiencies, interest, costs and expenses arising out of or relating to a matter and any actions, judgments, costs and expenses (including reasonable attorneys' fees and all other expenses incurred in investigating, preparing or defending any litigation or proceeding, commenced or threatened) incident to such matter or to the enforcement of this Agreement.

(e) "Lien" means any lien, encumbrance, security interest, mortgage, pledge, charge, conditional sale or other title retention agreement, preemptive right, easement, covenant, license, option, right of first refusal, title defect, or claim of any kind whatsoever.

(f) "Material Adverse Effect" means any change or circumstances (or series of related changes or circumstances) which cause or is reasonably likely to cause a material adverse change (i) in the assets, liabilities, operations, business, results of operations, financial condition or prospects of Seller or the Business, (ii) in the ability of Sellers to consummate the transactions contemplated hereby or (iii) in the ability of Buyer to continue to operate the Business immediately after the Closing in substantially the same manner as such Business is conducted prior to the Closing.

(g) "Permitted Liens" means (i) liens for current taxes not yet due, and (ii) with respect to the Real Estate, imperfections of title, easements and zoning restrictions, if any, which do not affect the uses and purposes to which the Real Estate is currently employed or materially impair the continuation of the current operations of the Business.

(h) "Person" means any individual, corporation, partnership, limited liability company, joint venture, association, trust or other entity or organization.

## ARTICLE II

## PURCHASE AND SALE OF ASSETS

Section 2.1. Purchase and Sale. Upon the terms and subject to the conditions of this Agreement and in reliance upon the representations and warranties contained herein, Seller hereby agrees to sell, transfer, assign, convey and deliver to Buyer on the Closing Date, and Buyer hereby agrees to purchase from Seller on the Closing Date, free and clear of all Liens, other than Permitted Liens, all of the assets, properties and rights of Seller constituting, or used in or otherwise material to the conduct of the Business, except as specifically set forth in Section 2.2, wherever such assets and rights are located including, but not limited to, all of the assets, properties and rights of the Business set forth below (the "Purchased Assets"):

(a) the leases and other rights of Seller (collectively, the "Leases") to occupy the real property listed on Schedule 2.1(a) (the "Real Estate");

(b) all of the rights under all written contracts, contractual rights, agreements, leases, purchase orders, sales orders, warranty rights, instruments and arrangements, which relate to the Business, including the License Agreement and those identified on Schedules 2.1(b) (the "Contracts");

(c) all of the scientific equipment and compounds, removable fixtures, furniture and office equipment, communications equipment, computers and office supplies, including those identified on Schedule 2.1(c), used, held for use in, or related to the conduct of the Business (except the assets listed in Schedule 2.2(d)) and any rights to the warranties and

licenses received from the manufacturers and distributors of such equipment and to any related claims, credits, causes of action, rights of recovery and set-off arising with respect to such items;

(d) all of the governmental grants, permits, certificates of inspection, certificates of occupancy, building permits, variances and other licenses or permits, approvals or other authorizations currently issued to Seller or Seller Parent with respect to the Business and which are used in, held for use in, or necessary or material to, or which are otherwise required by law for, the operation of the Business to be transferred to Buyer (the "Governmental Permits"), including without limitation, the PHS Research Grant and those Governmental Permits described and identified in Schedule 2.1(d);

(e) except to the extent set forth in Section 2.2(i), all patents, trademarks, symbols, service marks, registrations, copyrights and applications for any of the foregoing owned by, or licensed to Seller and used in the Business, including the Patent Rights;

(f) all of the rights, claims or causes of action of Seller against third Persons to the extent they relate to the Business or the Purchased Assets, except for the claims listed in Schedule 2.2(f); and

(g) except to the extent provided in Section 2.2(a), all books, research logs, notebooks, and records of Seller relating to the Business including without limitation, those relating to the PHS Research Grant, any market studies relating to 2-5A antisense for RSV or telomerase, including 2-5A Antisense Development Plan for RSV prepared by Hoyle Consulting, and any software and information management systems used or held for use in or related to the conduct of the Business, including any documentation and manuals related thereto (the "Business Records").

Section 2.2. Excluded Assets. It is hereby expressly acknowledged and agreed that the Purchased Assets shall not include, and Seller shall not sell, transfer or assign to Buyer, and Buyer shall not purchase or acquire from Seller, the following assets (the "Excluded Assets"):

(a) the minute books, stock transfer books, corporate seal and other books and records of Seller that Sellers or any of their Affiliates are required by law to retain;

(b) all of Seller's bank accounts;

(c) any claim, right or interest of Seller in and to any refund for Taxes, together with any interest due Seller thereon, for any periods prior to the Closing Date;

(d) all assets located at the Real Estate owned by third parties, which assets are listed on Schedule 2.2(d);

(e) all of Seller's rights under the contracts and agreements listed on Schedule 2.2(e) (the "Excluded Contracts"");

(f) all of Seller's rights in any contract or arrangement representing an intercompany transaction between Seller and Seller Parent or any Affiliate of Seller Parent, which contracts and arrangements are listed on Schedule 2.2(f);

(g) all of the rights, claims or causes of action of Seller against third Persons to the extent they relate to the Excluded Assets and are listed in Schedule 2.2(g);

(h) all rights, title and interests in or to the names "Gemini" or any derivation thereof, as well as any related or similar name, and any other related trade names, trademarks, service marks, corporate names and logos or any part, derivation, colorable imitation or combination thereof; and

(i) all of the items listed on Schedule 2.2(i).

Section 2.3. Non-Assumption of Liabilities. Buyer shall not assume, and shall not become liable for, any debts, liabilities, or obligations of Sellers whatsoever, except the liabilities and obligations of Seller under the Contracts and the Leases to the extent such liabilities and obligations arise after the Closing and relate to the performance of the Contracts or the Leases after the Closing. For purposes hereof, the term "liabilities" shall mean any liabilities, obligations, losses, consequential damages (including, without limitation, punitive damages), claims, costs, expenses (including, without limitation, reasonable legal costs and expenses), interest, awards, judgments, fines and penalties.

Section 2.4. Closing Date, Time and Place. The closing of the transactions contemplated by this Agreement (the "Closing"), shall take place at the offices of Squire, Sanders & Dempsey L.L.P., 4900 Key Tower, 127 Public Square, Cleveland, Ohio at 10:00 a.m., local time, on April 30, 2001 (the "Closing Date"), or at such other time and location as Seller and Buyer shall mutually agree in writing.

Section 2.5. Purchase Price. Buyer shall pay Seller for the Purchased Assets and the other agreements of Seller stated herein, an amount equal to twenty percent (20%) of all amounts to which CCF is entitled pursuant to the License Agreement (the "Consideration"), paid on a quarterly basis, subject to the adjustments described below (the "Purchase Price"). Buyer and CCF agree that the Consideration shall not be reduced by any amendment to the License Agreement and that they shall not terminate the License Agreement.

Section 2.6. Purchase Price Adjustment. The Purchase Price shall be reduced by one percent (1%) of the Sublicense Fees for each One Hundred and Fifty Thousand Dollars ($150,000) of the Buyer's Capital Expenditures. Any reduction in the Purchase Price pursuant to this Section 2.6 shall be effective retroactively from the beginning of the fiscal quarter of Buyer during which any applicable increase of the Buyer's Capital Expenditures occurs. Notwithstanding the foregoing, in no case shall the Purchase Price be reduced below five percent (5%) of the Sublicense Fees.

Section 2.7. Deliveries.

(a) At the Closing, Sellers will deliver to Buyer:

(i) A duly executed Bill of Sale and Conveyance for the Purchased Assets, substantially in the form of Exhibit A hereto (the "Bill of Sale and Conveyance");

(ii) All executed consents and approvals required to be obtained in connection with the transactions contemplated hereby;

(iii) A certificate, dated the date hereof, in form and substance satisfactory to Buyer, of the Secretary or an Assistant Secretary of Seller, certifying (A) that attached thereto is a complete and correct copy of the articles of incorporation of Seller, as amended to date, (B) that attached thereto is a complete and correct copy of the bylaws of Seller, as amended to date, (C) that attached thereto is a complete and correct copy of resolutions adopted by the board of directors and the stockholders of Seller and Seller Parent, as applicable, authorizing the execution, delivery and performance of this Agreement and all other agreements executed in connection herewith by Seller or Seller Parent, as applicable, and the transfer of the Purchased Assets to Buyer hereunder, and that such resolutions, approvals and consents have not been amended or modified in any respect and remain in full force and effect as of the date thereof, and (D) that the persons named therein are duly elected, qualified and acting officers of Seller or Seller Parent, as applicable, and that set forth therein is a genuine signature or true facsimile thereof for each such officer;

(iv) A certificate of an authorized officer of Seller, dated as of the Closing Date, certifying that the conditions contained in Sections 6.1(a) and 6.1(b) have been fulfilled pursuant to Section 6.1(c);

(v) A fully executed assignment of the Leases, with landlord consent, if required, (the "New Lease"); and

(vi) A fully executed mutual release among CCF, on the one hand, and Atlantic and Gemini, on the other, acknowledging the full and complete mutual release of each party thereto and their respective employees, agents and affiliates from any and all claims, actions or proceedings, know or unknown, arising from the beginning of time until the Closing Date (the "Mutual Release"). The Mutual Release shall not release any party to this Agreement from any obligations, duties, liabilities, claims, actions or proceedings pursuant to the terms and conditions hereof or arising herefrom.

(b) Deliveries by Buyer. At the Closing, the Buyer will deliver to Seller:

(i) The Bill of Sale and Conveyance;

(ii) A certificate, dated the date hereof, in form and substance satisfactory to Sellers, of the Secretary or an Assistant Secretary of Buyer certifying (A) that attached thereto is a complete and correct copy of resolutions adopted by the board of directors

of Buyer authorizing the execution, delivery and performance of this Agreement and all other agreements executed in connection herewith by Buyer, and that such resolutions, approvals and consents have not been amended or modified in any respect and remain in full force and effect as of the date thereof, and (B) that the persons named therein are duly elected, qualified and acting officers of Buyer and that set forth therein is a genuine signature or true facsimile thereof for each such officer;

(iii) A certificate of an authorized officer of Buyer, dated as of the Closing Date, certifying that the conditions contained in Sections 6.2(a) and 6.2(b) have been fulfilled pursuant to Section 6.2(c);

(iv) The New Lease;

(v) Notice of withdrawal of the Arbitration Demand, with prejudice, providing for each party thereto to pay its own costs and attorney's fees; and

(vi) The Mutual Release.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF SELLERS

Sellers, jointly and severally, hereby represent and warrant to Buyer as follows:

Section 3.1. Authorization; Binding Agreement. Each of Seller and Seller Parent has full corporate power and authority to execute, deliver and perform this Agreement and each other document or instrument contemplated hereby, to perform its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement by each of Seller and Seller Parent have been duly authorized by all necessary corporate action on the part of Seller or Seller Parent, as applicable. This Agreement and each other document or instrument executed by the Seller or Seller Parent in connection herewith, has been duly executed and delivered by each of Seller and Seller Parent, and constitutes the legal, valid and binding obligation of each of Seller and Seller Parent enforceable in accordance with its terms.

Section 3.2. No Violation of Laws or Agreements. Except as set forth in Schedule 3.2, the execution, delivery and performance by Sellers of this Agreement and any other documents or instruments contemplated hereby, do not and will not: (a) violate or conflict with or result in a breach of any provision of the Certificate of Incorporation or Bylaws (or similar documents) of Sellers, as such instruments are currently in effect; (b) require any consent, waiver, approval, authorization or permit of, or filing with or notification to, or any other action by, any public body or entity; (c) violate any provision of applicable law, statute, rule or regulation, or any order, writ, judgment, injunction, decree of any court or other tribunal applicable to Sellers; or (d) result in a violation or breach of, or constitute (with or without the giving of notice or the lapse of time or both) a default (or give rise to any right of termination, modification, cancellation or acceleration or result in the creation or imposition of any Lien upon

the property of Seller) under any material agreement, note, bond or indenture by which Sellers or any of their respective properties or assets is bound.

Section 3.3. Assets. Seller has good and marketable title to, or leasehold interest in, all of the tangible Purchased Assets free and clear of any Liens other than Permitted Liens, and has full power and authority to transfer all right, title and interest in and to the Purchased Assets, and the delivery to Buyer of the Assets in the manner contemplated by this Agreement will transfer to Buyer valid title to the Assets, free and clear of all Liens, except for Permitted Liens. The Purchased Assets and the Excluded Assets constitute all of the properties and assets used in connection with the Business, are sufficient to operate the Business as presently conducted and are in sufficiently good condition and repair to operate the Business after the Closing as it was operated prior to the Closing.

Section 3.4. PHS Research Grant. The Seller is in compliance with all the requirements and conditions under the PHS Research Grant. The remaining balance on the PHS Research Grant available to the Seller is no less than Five Hundred Thousand Dollars ($500,000).

Section 3.5. Real Estate. Seller is the lessee under the Lease, and no party other than Seller has any right to possession, occupancy or use of any of the Real Estate. The Seller has a good and valid leasehold as to the Real Estate, free and clear of all Liens. The Lease with respect to the Real Estate is in full force and effect. All terms, conditions, and provisions of the Lease to be performed have been duly and timely performed and complied with by the Seller and the other parties thereto. No default has occurred and no event has occurred or failed to occur which with the giving of notice, the passage of time, or both, would constitute a material default with respect to such Lease. Except as set forth in Schedule 3.5, there are no security deposits or prepaid rent (including last month's rent in advance) with respect to the Real Estate. True and complete copy of the Lease, including all amendments have been delivered to Buyer, and no changes have been made to the Lease since the date of such delivery. Except as set forth in Schedule 3.5, the rent and all other charges and amounts currently due and payable under the Lease have been paid to date.

Section 3.6. Personal Property. Except as set forth on Schedule 3.6, the items of personal property included in the Purchased Assets are in good operating condition, free of any defects except those resulting from normal wear and operation, none of which defects, individually or in the aggregate, reasonably could be expected to have a Material Adverse Effect.

Section 3.7. Compliance with Laws. The operations of Seller have been conducted in compliance in all material respects with applicable laws and regulations, other than such non-compliance which would not have a Material Adverse Effect. Except as disclosed in Schedule 3.7, all Governmental Permits have been obtained and are in full force and effect and are being complied with in all material respects except for such which, individually or in the aggregate, would not have a Material Adverse Effect. No proceeding which might involve the revocation or termination of any Governmental Permit is pending or, to the knowledge of Seller, threatened.

Section 3.8. Litigation; Claims.

(a) Except as set forth in Schedule 3.8, there is no pending or, to the knowledge of Sellers, threatened claim, arbitration proceeding, action, suit, investigation or other proceeding against or involving Seller or its assets, at law or in equity, by or before any court in respect of the Business or the Purchased Assets.

(b) There are currently no outstanding judgments, decrees or orders of any court or any governmental or administrative agency to which either Seller is a party or is bound, that could adversely affect the right, title or interest of Sellers to the Business or the Purchased Assets.

(c) The Sellers have no knowledge of any fact or circumstance which could reasonably be expected to result in any other claim, action, cause of action, suit, proceeding, inquiry, investigation or order being filed against the Seller which might have a Material Adverse Effect.

(d) The Sellers have not received notice or information of any claim or allegation of personal death or personal injury, property or economic damage, any claim for punitive or exemplary damages, any claim for contribution or indemnification, or any claim for injunctive relief in connection with any service provided by the Seller.

(e) No claim, action, suit, proceeding, inquiry or investigation has been instituted which threatens to restrain or prohibit or to otherwise challenge the legality or validity of the transactions contemplated by this Agreement or the other documents or agreements contemplated hereby.

(f) Except as set forth in Schedule 3.8, the operation of the Business by the Sellers does not, to the knowledge of Sellers, infringe upon the proprietary rights of others, including without limitation any intellectual property rights such as trademarks, service marks, copyrights, patents, and trade names and the Sellers have not received any notice alleging that the Seller has infringed on any other party's intellectual property rights in the conduct of the Business.

(g) In connection with the operation of the Business, the Sellers have not given any indemnification for infringement of any other party's intellectual property rights, except for standard clauses in software licensing agreements.

(h) The Sellers have no knowledge of any limitation to the continued and/or expanded use of any trademarks, service marks, trade names or other intellectual property owned by the Sellers used in the Business.

Section 3.9. No Brokers or Finders. Neither Sellers nor any of their respective Affiliates (a) has employed (or will employ) any broker or finder, or (b) has incurred (or will incur) any liability for any brokerage fees, commissions or finders' fees or expenses or indemnification or similar obligations in connection with the transactions contemplated by this Agreement.

## ARTICLE IV

## REPRESENTATIONS AND WARRANTIES OF THE BUYER

The Buyer hereby represents and warrants to the Seller and Seller Parent as follows:

Section 4.1. Authorization; Binding Agreement. Buyer has full corporate power and authority to execute, deliver and perform this Agreement and each other document or instrument contemplated hereby, to perform its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement by Buyer have been duly authorized by all necessary corporate action on the part of the Buyer. This Agreement, and each other document or instrument executed by the Buyer in connection herewith, has been duly executed and delivered by Buyer and constitutes a legal, valid and binding obligation of Buyer, enforceable in accordance with its terms.

Section 4.2. No Violations. The execution, delivery and performance of this Agreement by Buyer and the consummation of the transactions contemplated hereby do not and will not (i) result in a breach or violation of any provision of the Articles of Incorporation or Bylaws (or similar documents) of Buyer, as such instruments are currently in effect; and (ii) will not result in a breach of, or constitute a default under, any agreement or other document to which Buyer is bound which would materially affect the ability of Buyer to perform its obligations hereunder or to consummate the transactions contemplated hereby.

Section 4.3. No Brokers or Finders. Neither Buyer nor any of its Affiliates (a) has employed (or will employ) any broker or finder, or (b) has incurred (or will incur) any liability for any brokerage fees, commissions or finders' fees or expenses or indemnification or similar obligations in connection with the transactions contemplated by this Agreement.

## article v

## COVENANTS

Section 5.1. Access to Information. Prior to the Closing, Buyer may make such investigation of the Business and properties of the Seller as Buyer may determine is reasonably necessary, and upon reasonable notice, the Seller shall give to Buyer and its representatives reasonable access, during normal business hours throughout the period prior to the Closing, to the property, books, commitments, agreements, records, files and personnel of the Seller or Seller Parent (but only to the extent they relate to the Seller or the Business), and the Seller shall furnish to Buyer during that period all copies of documents and information concerning the Seller as Buyer may reasonably request subject to applicable law.

Section 5.2. Confidentiality.

(a) From and after the Closing, Seller and Seller Parent shall, and shall cause their Affiliates and representatives to, keep confidential and not disclose to any other Person or use for Seller's own benefit or the benefit of any other Person any Confidential Information in its or their possession or control regarding the Business. The obligations of Seller and Seller Parent under this Section 5.2(a) shall not apply to information which (i) is or becomes generally available to the public without breach of the commitment provided for in this Section; (ii) was independently developed by Seller and Seller Parent; or (iii) is required to be disclosed by law, order or regulation of a court or tribunal or governmental authority; provided, however, in the case of clause (iii), Seller or Seller Parent subject to such requirement shall notify Buyer as early as practicable prior to disclosure to allow Buyer to take appropriate measures to preserve the confidentiality of such information.

(b) Upon any termination of this Agreement, each party will promptly either destroy or deliver to the other parties all written Confidential Information held by such party or its representatives.

Section 5.3. Relocation of the PHS Research Grant. Within five (5) days following the date of this Agreement, the Seller shall prepare and submit, in accordance with the regulations of the Department of Health and Human Services and the National Institutes of Health, and any other applicable agency regulations or policies, the documentation meeting the requirements of the National Institutes of Health, including Form PHS-3734, Form 269, Form HHS-568, and any other information required by the National Institute of Health for the relocation of the PHS Research Grant to the Buyer, to ensure that all of Seller's right, title and interest in and to, and all of the Seller's obligations and liabilities under the PHS Research Grant shall be validly conveyed, transferred and assigned to the Buyer. The Seller shall provide to the Buyer promptly any information regarding the Seller required in connection with the relocation request. The Seller shall use all reasonable efforts to obtain all consents and approvals required for the purpose of relocation of the PHS Research Grant to the Buyer.

Section 5.4. Conduct of Business. Prior to the Closing, and except as otherwise contemplated by this Agreement or consented to or approved by Buyer, Sellers covenant and agree that Seller shall operate the Business only in the ordinary course and consistent with past practice, shall maintain in full force and effect all insurance currently maintained by the Seller and shall use commercially reasonable efforts to preserve the properties, business, relationships with its Employees, and shall not undertake any of the following with respect to the Business:

(a) dispose of any Purchased Assets;

(b) create a Lien on any of the Purchased Assets;

(c) talk to, or entertain offers from other potential purchasers of the Seller, and the Seller will notify the Buyer if there are any contacts from third parties who express an interest in purchasing the Seller and identify any such third parties; or

(d) enter into any contract, agreement, commitment or arrangement with respect to any of the foregoing.

Section 5.5. Employment Matters. Sellers agree and acknowledge that Buyer will offer employment to certain employees who are employed in connection with the Business (the "Transferred Employees"). Sellers hereby waive any confidentiality, non-competition, or any other restrictive agreements, covenants or conditions with respect to Buyer's employment of any of the Transferred Employees.

Section 5.6. Consent of Third Parties. Sellers agree that on and after the Closing, Sellers will, at the request of Buyer, take all reasonable actions, and do or cause to be done all such things as shall in the reasonable opinion of Buyer or its counsel be necessary or proper (i) to assure that the rights of Seller in any and all of the Purchased Assets shall be preserved for the benefit of Buyer and (ii) to facilitate receipt of the consideration, if any, to be received by Seller with respect to any and all of the Purchased Assets, which consideration shall be held for the benefit of, and shall be delivered to, Buyer.

Section 5.7. Audit Rights. At any time after Buyer enters into any sublicense arrangement pursuant to the License Agreement but no more than twice in any twelve (12) month period, Sellers may, at Sellers' sole expense, examine and audit Buyer's books, financial records and accounts related to the License Agreement and Buyer's Capital Expenditures. Notwithstanding the foregoing, any such examination or audit shall take place (i) only upon three (3) business days' prior written notice to Buyer, (ii) during Buyer's regular business hours; and (iii) at a location determined by Buyer. Sellers shall keep all information referred to in this Section 5.7. confidential in accordance with Section 5.2. hereof.

## ARTICLE VI

## CONDITIONS TO CLOSING; TERMINATION

Section 6.1. Conditions to Closing Relating to Buyer. The obligation of Buyer at the Closing to consummate the transactions contemplated hereby shall be subject to the satisfaction or waiver by Buyer on or prior to the Closing Date of each of the following conditions:

(a) Each of the representations and warranties of Sellers contained in this Agreement shall be true and correct in all material respects when made and as of the Closing Date, with the same effect as though such representations and warranties had been made on and as of the Closing Date.

(b) Each of the covenants of Seller to be performed on or prior to the Closing Date shall have been duly performed.

(c) Buyer shall have been furnished with a certificate of an authorized officer of Seller, dated as of the Closing Date, certifying that the conditions contained in Sections 6.1(a) and 6.1(b) have been fulfilled.

(d) The documents referred to in Section 2.7 shall have been delivered to Buyer.

(e) All necessary consents or approvals from any third parties shall have been received.

(f) Approval of the Buyer's Board of Directors of the transactions contemplated by this Agreement.

(g) Between the date hereof and the Closing, there shall have been no material damage or destruction to the Purchased Assets.

Section 6.2. Conditions to Closing Relating to Seller. The obligation of Sellers at the Closing to consummate the transactions contemplated hereby shall be subject to the satisfaction or waiver by Seller on or prior to the Closing Date of each of the following conditions:

(a) Each of the representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects when made and as of the Closing Date, with the same effect as though such representations and warranties had been made on and as of the Closing Date.

(b) Each of the covenants of Buyer to be performed on or prior to the Closing Date shall have been duly performed.

(c) Seller shall have been furnished with a certificate of an authorized officer of Buyer, dated as of the Closing Date, certifying to the effect that the conditions contained in Sections 6.2(a) and 6.2(b) have been fulfilled.

(d) The documents referred to in Section 2.7. shall have been delivered to the Seller.

(e) All necessary consents or approvals from any third parties shall have been received.

## ARTICLE VII

## INDEMNIFICATION

Section 7.1. Indemnification.

(a) Seller and Seller Parent hereby, jointly and severaly, agree to indemnify, defend and hold Buyer and its respective officers, directors and other Affiliates harmless from and against and to reimburse such Persons with respect to any one or more of the following:

(i) any and all Damages arising out of or resulting from a misrepresentation or breach of warranty of Sellers contained in this Agreement or

in any exhibit or schedule hereto, or in any other certificate or document furnished or to be furnished to Buyer pursuant hereto;

(ii) any and all Damages arising out of or resulting from any breach of any obligation of Sellers contained in this Agreement;

(iii) claims relating to operations of the Business by Sellers prior to the Closing Date, including, but not limited to, claims based on tort liability, warranty, negligence, strict liability and workers' compensation liability;

(iv) claims for taxes with respect to the conduct of the Business and operations of the Seller prior to the Closing Date; and

(b) Buyer hereby agrees to indemnify, defend and hold Seller and Seller Parent harmless from and against and to reimburse Seller and Seller Parent with respect to any one or more of the following:

(i) any and all Damages arising out of or resulting from a misrepresentation or breach of warranty of Buyer contained in this Agreement or in any certificate or document furnished or to be furnished to Sellers pursuant hereto;

(ii) any and all Damages arising out of or resulting from any breach of any obligation of Buyer contained in this Agreement, whether requiring performance before or after the Closing Date; and

(iii) any and all Damages arising from the operation of the Business or the Purchased Assets after the Closing Date.

Section 7.2. General Indemnification Procedures.

(a) All claims by a party seeking indemnification pursuant to this Article VII (an "Indemnified Party") shall be asserted and resolved as set forth in this Section 7.2. In the event that any written claim or demand for which the party from whom such indemnification is sought (the "Indemnifying Party") would be liable to any Indemnified Party hereunder is asserted against or sought to be collected from any Indemnified Party by a third party, such Indemnified Party shall promptly, but in no event more than fifteen days following such Indemnified Party's receipt of such claim or demand, notify the Indemnifying Party of such claim or demand and the amount or the estimated amount thereof to the extent then feasible (which estimate shall not be conclusive of the final amount of such claim and demand) (the "Claim Notice"). The Indemnifying Party shall have thirty days from the personal delivery or mailing of the Claim Notice (the "Notice Period") to notify the Indemnified Party whether or not it desires to defend the Indemnified Party against such claim or demand. An election to assume the defense of such claim or demand shall not be deemed to be an admission that the Indemnifying Party is liable to the Indemnified Party in respect of such claim or demand. The Indemnified Party shall use its best efforts in the defense of all such claims. Any notice of a

claim by reason of any of the representations, warranties or covenants contained in this Agreement shall state specifically the representation, warranty, or covenant with respect to which the claim is made, the facts giving rise to an alleged basis for the claim, and the amount of the liability asserted against the Indemnifying Party by reason of the claim.

(b) All costs and expenses incurred by the Indemnifying Party in defending such claim or demand shall be a liability of, and shall be paid by, the Indemnifying Party; provided, however, that the amount of such expenses shall be a liability of the Indemnifying Party hereunder, subject to the limitations set forth in this Article VII. In the event that it is ultimately determined that the Indemnifying Party is not obligated to indemnify, defend or hold the Indemnified Party harmless from and against any third-party claim, the Indemnified Party shall reimburse the Indemnifying Party for any and all costs and expenses (including without limitation, attorney's fees and court costs) incurred by the Indemnify Party in its defense of the third-party claim. In the event that the Indemnifying Party notifies the Indemnified Party within the Notice Period that it desires to defend the Indemnified Party against such claim or demand, except as hereinafter provided, the Indemnifying Party shall have the right to defend the Indemnified Party by appropriate proceedings.

(c) If the Indemnified Party desires to participate in, but not control, any such defense or settlement, it may do so at its sole cost and expense. The Indemnified Party shall not settle a claim or demand without the consent of the Indemnifying Party, which shall not be unreasonably withheld. The Indemnifying Party shall not, without the prior written consent of the Indemnified Party, which shall not be unreasonably withheld, settle, compromise or offer to settle or compromise any such claim or demand on a basis which would result in the imposition of a consent order, injunction or decree that would restrict the future activity or conduct of the Indemnified Party or any subsidiary or Affiliate thereof. If the Indemnifying Party elects not to defend the Indemnified Party against such claim or demand, whether by not giving the Indemnified Party timely notice as provided above or otherwise, then the amount of any such claim or demand, or, if the same be contested by the Indemnified Party, then that portion thereof as to which such defense is unsuccessful (and the reasonable costs and expenses pertaining to such defense) shall be the liability of the Indemnifying Party hereunder, subject to the limitations set forth in this Article VII.

(d) To the extent the Indemnifying Party shall control or participate in the defense or settlement of any third-party claim or demand, the Indemnified Party will give the Indemnifying Party and its counsel access to, during normal business hours, the relevant business records and other documents, and shall permit them to consult with the employees and counsel of the Indemnified Party.

(e) Whether or not the Indemnifying Party chooses to defend or prosecute any third-party claim, all the parties hereto shall cooperate in the defense or prosecution thereof and shall furnish such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials and appeals, as may be reasonably requested in connection therewith.

ARTICLE VIII

MISCELLANEOUS

Section 8.1. Survival. All representations, warranties, covenants and agreements of Buyer and Sellers contained herein shall survive until three years after the Closing.

Section 8.2. Amendment and Modification. This Agreement may be amended, modified, supplemented or altered only by a written agreement signed by the Buyer, Seller and the Seller Parent.

Section 8.3. Notices. All notices and other communications hereunder shall be in writing (including by facsimile during business hours) and shall be deemed to have been duly given when delivered in Person (including by overnight courier), when faxed (with confirmation of transmission having been received), in each case to the respective parties at the following addresses (or at such other address for a party as shall be specified by like notice).

If to the Sellers, to:

Atlantic Technology Ventures, Inc.
350 Fifth Avenue, Suite 5507
New York, New York 10018
Facsimile: (212) 267-2159
Attention: Frederic P. Zotos

with a copy sent contemporaneously to:

Kramer Levin Naftalis & Frankel LLP
919 Third Avenue
New York, NY 10022
Facsimile: (212) 715-8000
Attention: Ezra G. Levin, Esq.

If to the Buyer, to:

IFN, Inc.
9500 Euclid Avenue
ND-40
Cleveland, Ohio 44195
Facsimile: (216) 445-6514
Attention: Christopher M. Coburn

with a copy sent contemporaneously to:

David W. Rowan, Esq.
Squire, Sanders & Dempsey
4900 Key Tower
Cleveland, OH 44114
Facsimile: (216) 479-8780

Section 8.4. Expenses. Except as otherwise expressly provided herein, each of the parties hereto will bear its own expenses in connection with the negotiation, preparation, execution and delivery of this Agreement and the documents and instruments contemplated hereby and in connection with and the transactions contemplated hereby and thereby, including all fees and disbursements of counsel, accountants, appraisers and other advisors retained by such party, whether or not the transactions contemplated by this Agreement are consummated.

Section 8.5. Governing Law. This Agreement, and all agreements, documents and instruments delivered pursuant to hereto or incorporated herein, unless otherwise expressly provided therein, shall be governed by, and construed in accordance with, the internal laws of the State of Ohio without giving effect to principles of conflicts of law.

Section 8.6. Counterparts. This Agreement may be executed by the parties hereto individually or in any combination, in one or more counterparts, each of which shall be deemed an original and all of which shall together constitute one and the same instrument.

Section 8.7. Entire Agreement. This Agreement, including the documents and instruments referred to herein or contemplated hereby, embodies the entire agreement and understanding of the parties hereto in respect of the subject matter hereof. There are no restrictions, promises, representations, warranties, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements and understandings between the parties with respect to the subject matter hereof, in connection with the transactions contemplated hereby).

Section 8.8. Severability. If any provision or provisions of this Agreement or of any of the documents or instruments delivered pursuant hereto, or any portion of any provision hereof or thereof, shall be deemed invalid or unenforceable pursuant to a final determination of any court of competent jurisdiction or as a result of future legislative action, such determination or action shall be construed so as not to affect the validity or enforceability hereof or thereof and shall not affect the validity or effect of any other portion hereof or thereof.

Section 8.9. Headings. The headings of the various Articles and Sections of this Agreement have been inserted for the purpose of convenience of reference only, and shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions of this Agreement.

Section 8.10. Exhibits and Schedules. All exhibits and schedules attached hereto and referred to herein are hereby incorporated in and made a part of this Agreement as set forth in full herein.

Section 8.11. Further Assurances. The Sellers shall, for no further consideration, perform all such other reasonable actions and execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further assignments, transfers, consents, permits, certificates and other documents as Buyer or its counsel may reasonably request to vest in Buyer and protect Buyer's rights, title and interest in and to the enjoyment of the Business and the Purchased Assets conveyed, transferred and delivered to Buyer under this Agreement and to affirm and protect Buyer's rights and interests under this Agreement.

* * *

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IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed on its behalf as of the date first above written.

ATLANTIC TECHNOLOGY VENTURES, INC.

By: /s/ Frederic P. Zotos
---
Name: Frederic P. Zotos
Title: President and Chief Executive Officer

GEMINI TECHNOLOGIES, INC.

By: /s/ A. Joseph Rudick
---
Name: A. Joseph Rudick
Title: President

IFN, INC.

By: /s/ Frank Lordeman
---
Name: Frank Lordeman
Title: Chief Executive Officer

And by:
---
Name:
Title:

THE CLEVELAND CLINIC FOUNDATION

By: /s/ Frank Lordeman
---
Name: Frank Lordeman
Title: Chief Executive Officer