

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

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended **March 31, 2019**

or

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

For the transition period from _____ to _____

Commission File Number: 001-36385

BIOLASE, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation or organization)

87-042441
(I.R.S. Employer
Identification No.)

4 Cromwell
Irvine, California 92618
(Address of principal executive offices) (Zip code)
(949) 361-1200
(Registrant's telephone number, including area code)

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

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

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

Large accelerated filer
Non-accelerated filer

Accelerated filer
Smaller reporting company
Emerging growth company

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

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

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

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common stock at par value \$0.001 per share	BIOL	The NASDAQ Stock Market LLC (NASDAQ Capital Market)

As of May 7, 2019, the registrant had 21,293,736 shares of common stock, \$0.001 par value per share, outstanding.

BIOLASE, INC.

INDEX

	<u>Page</u>
PART I. FINANCIAL INFORMATION	
Item 1. Financial Statements (Unaudited):	3
Consolidated Balance Sheets as of March 31, 2019 and December 31, 2018	3
Consolidated Statements of Operations and Comprehensive Loss for the three months ended March 31, 2019 and March 31, 2018	4
Consolidated Statements of Stockholders' Equity as of March 31, 2019 and December 31, 2018	5
Consolidated Statements of Cash Flows for the three months ended March 31, 2019 and March 31, 2018	6
Notes to Consolidated Financial Statements	7
Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations	25
Item 3. Quantitative and Qualitative Disclosures About Market Risk	35
Item 4. Controls and Procedures	35
PART II OTHER INFORMATION	35
Item 1. Legal Proceedings	35
Item 1A. Risk Factors	35
Item 5 Other Information	35
Item 6. Exhibits	37
Signatures	40

PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

BIOLASE, INC.
CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share data)

	March 31, 2019 <u>(unaudited)</u>	December 31, 2018 <u>(audited)</u>
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 2,956	\$ 8,044
Restricted cash	312	312
Accounts receivable, less allowance of \$869 and \$850 in 2019 and 2018, respectively	11,743	11,112
Inventory	12,023	12,248
Prepaid expenses and other current assets	1,815	1,591
Total current assets	28,849	33,307
Property, plant, and equipment, net	1,733	1,975
Goodwill	2,926	2,926
Other assets	302	308
Total assets	<u>\$ 33,810</u>	<u>\$ 38,516</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	5,894	5,953
Accrued liabilities	6,713	7,538
Deferred revenue, current portion	2,513	2,476
Total current liabilities	15,120	15,967
Deferred income taxes, net	72	77
Warranty accrual	577	447
Other liabilities	162	100
Term loan	10,906	10,836
Total liabilities	26,837	27,427
Commitments and contingencies — Note 11		
Stockholders' equity:		
Preferred stock, par value \$0.001 per share; 1,000 shares authorized; 0 shares issued and outstanding as of March 31, 2019 and December 31, 2018, respectively	—	—
Common stock, par value \$0.001 per share; 40,000 shares authorized, 21,294 and 21,072 shares issued and outstanding as of March 31, 2019 and December 31, 2018, respectively	21	21
Additional paid-in-capital	229,269	228,430
Accumulated other comprehensive loss	(725)	(670)
Accumulated deficit	(221,592)	(216,692)
Total stockholders' equity	6,973	11,089
Total liabilities and stockholders' equity	<u>\$ 33,810</u>	<u>\$ 38,516</u>

See accompanying notes to unaudited consolidated financial statements.

BIOLASE, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS
(Unaudited)
(in thousands, except per share data)

	Three Months Ended	
	March 31,	
	2019	2018
Products and services revenue	\$ 10,323	\$ 10,017
License fees and royalty revenue	3	3
Net revenue	10,326	10,020
Cost of revenue	6,804	6,987
Gross profit	3,522	3,033
Operating expenses:		
Sales and marketing	3,879	3,891
General and administrative	2,393	3,037
Engineering and development	1,424	1,289
Change in fair value of patent litigation settlement liability	190	—
Total operating expenses	7,886	8,217
Loss from operations	(4,364)	(5,184)
Loss (gain) on foreign currency transactions	43	(207)
Interest expense	478	12
Non-operating loss (income), net	521	(195)
Loss before income tax provision	(4,885)	(4,989)
Income tax provision	15	32
Net loss	(4,900)	(5,021)
Other comprehensive income item:		
Foreign currency translation adjustment	(55)	84
Comprehensive loss	\$ (4,955)	\$ (4,937)
Net loss per share:		
Basic	\$ (0.23)	\$ (0.25)
Diluted	\$ (0.23)	\$ (0.25)
Shares used in the calculation of net loss per share:		
Basic	21,134	20,469
Diluted	21,134	20,469

See accompanying notes to unaudited consolidated financial statements.

BIOLASE, INC.
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(Unaudited, in thousands)

	Three Months Ended March 31,	
	2019	2018
Total stockholders' equity, beginning balances	\$ 11,089	\$ 29,260
Common stock and additional paid-in capital:		
Beginning balance	228,451	225,012
Issuance of common stock upon exercise of options	3	2
Settlement of liability awards	202	—
Stock offering costs	—	(38)
Stock-based compensation expense	634	650
Ending balance	229,290	225,626
Accumulated other comprehensive loss:		
Beginning balance	(670)	(576)
Other comprehensive (loss) income	(55)	84
Ending balance	(725)	(492)
Accumulated deficit		
Beginning balance	(216,692)	(195,176)
Net loss	(4,900)	(5,021)
Ending balance	(221,592)	(200,197)
Total stockholders' equity, ending balances	\$ 6,973	\$ 24,937

See accompanying notes to unaudited consolidated financial statements.

BIOLASE, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited, in thousands)

	Three Months Ended March 31,	
	2019	2018
Cash Flows from Operating Activities:		
Net loss	\$ (4,900)	\$ (5,021)
Adjustments to reconcile net loss to net cash and cash equivalents used in operating activities:		
Depreciation and amortization	258	264
Provision for bad debts, net	19	200
Provision for sales allowance	—	4
Amortization of discounts on lines of credit	38	—
Amortization of debt issuance costs	49	7
Stock-based compensation	757	701
Deferred income taxes	(5)	2
Earned interest income, net	(1)	(1)
Change in fair value of patent litigation settlement liability	190	—
Changes in operating assets and liabilities:		
Accounts receivable	(650)	186
Inventory	225	(1,103)
Prepaid expenses and other current assets	463	(20)
Accounts payable and accrued liabilities	(1,514)	460
Deferred revenue	37	(441)
Net cash and cash equivalents used in operating activities	(5,034)	(4,762)
Cash Flows from Investing Activities:		
Purchases of property, plant, and equipment	(8)	(102)
Net cash and cash equivalents used in investing activities	(8)	(102)
Cash Flows from Financing Activities:		
Principal payments under capital lease obligation	—	(46)
Borrowings under lines of credit	—	1,823
Payments of debt issuance costs	—	(74)
Payments of equity offering costs	—	(81)
Proceeds from exercise of stock options	3	2
Net cash and cash equivalents provided by financing activities	3	1,624
Effect of exchange rate changes	(49)	74
Decrease in cash, cash equivalents and restricted cash	(5,088)	(3,166)
Cash, cash equivalents and restricted cash, beginning of period	8,356	11,896
Cash, cash equivalents and restricted cash, end of period	\$ 3,268	\$ 8,730
Supplemental cash flow disclosure:		
Cash paid for interest	\$ 430	\$ —
Cash paid for income taxes	\$ 31	\$ 24
Cash paid for operating leases	\$ 189	\$ —
Non-cash accrual for capital expenditures	\$ 24	\$ 4
Non-cash right-of-use assets obtained in exchange for lease obligation	\$ 824	\$ —

See accompanying notes to unaudited consolidated financial statements.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

NOTE 1—DESCRIPTION OF BUSINESS AND BASIS OF PRESENTATION

The Company

BIOLASE, Inc. (“BIOLASE” and, together with its consolidated subsidiaries, the “Company”) is a medical device company that develops, manufactures, markets, and sells laser systems in dentistry and medicine and also markets, sells, and distributes dental imaging equipment, including three-dimensional CAD/CAM intra-oral scanners and digital dentistry software.

Basis of Presentation

The unaudited consolidated financial statements include the accounts of BIOLASE and its wholly-owned subsidiaries and have been prepared on a basis consistent with the December 31, 2018 audited consolidated financial statements and include all material adjustments, consisting of normal recurring adjustments and the elimination of all material intercompany transactions and balances, necessary to fairly present the information set forth therein. These unaudited, interim, consolidated financial statements do not include all the footnotes, presentations, and disclosures normally required by accounting principles generally accepted in the United States of America (“GAAP”) for complete consolidated financial statements.

The consolidated results of operations for the three months ended March 31, 2019 are not necessarily indicative of the results for the full year. The accompanying consolidated financial statements should be read in conjunction with the consolidated financial statements and notes thereto for the year ended December 31, 2018, included in BIOLASE’s Annual Report on Form 10-K for the year ended December 31, 2018 filed with the Securities and Exchange Commission (the “SEC”) on March 8, 2019 (the “2018 Form 10-K”).

Liquidity and Management’s Plans

The Company incurred a loss from operations and a net loss, and used cash in operating activities for the three months ended March 31, 2019. The Company’s recurring losses, level of cash used in operations, and potential need for additional capital, along with uncertainties surrounding the Company’s ability to raise additional capital, raise substantial doubt about the Company’s ability to continue as a going concern. The financial statements do not include any adjustments that might be necessary if the Company is unable to continue as a going concern.

As of March 31, 2019, the Company was not in compliance with certain of its loan covenants relating to the SWK Loan (as defined below). In May 2019, SWK Funding, LLC granted the Company a waiver of such covenants. On May 7, 2019, the Company entered into an amendment of its Credit Agreement with SWK Funding, LLC to increase the total loan commitment in the SWK Loan from \$12.5 million to \$15.0 million, to revise certain of the financial covenants and to issue additional warrants to purchase the Company’s common stock. See Note 15 for additional information.

As of March 31, 2019, the Company had working capital of approximately \$13.7 million. The Company’s principal sources of liquidity as of March 31, 2019 consisted of approximately \$3.3 million in cash, cash equivalents and restricted cash and \$11.7 million of accounts receivable.

In order for the Company to continue operations beyond the next 12 months and be able to discharge its liabilities and commitments in the normal course of business, it must sell its products directly to end users and through distributors, establish profitable operations through increased sales, decrease expenses, generate cash from operations, or obtain additional funds when needed. The Company intends to improve its financial condition and ultimately improve its financial results by increasing revenues through expansion of its product offerings, continuing to expand and develop its field sales force and distributor relationships both domestically and internationally, forming strategic arrangements within the dental and medical industries, educating dental and medical patients as to the benefits of its advanced medical technologies, and reducing expenses.

Additional capital requirements may depend on many factors, including, among other things, continued losses, the rate at which the Company's business grows, demands for working capital, manufacturing capacity, and any acquisitions that the Company may pursue. From time to time, the Company could be required, or may otherwise attempt, to raise capital, through either equity or debt offerings, or enter into an additional line of credit facility.

Reverse Stock Split

Except as the context otherwise requires, all share numbers and share price amounts (including exercise prices and closing market prices) contained in the unaudited financial statements and notes thereto reflect the one-for-five reverse stock split ("the Reverse Stock Split") effectuated by the Company on May 10, 2018. See Note 4 below for additional information.

NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Use of Estimates

The preparation of these unaudited consolidated financial statements in conformity with GAAP requires the Company to make estimates and assumptions that affect amounts reported in the consolidated financial statements and the accompanying notes. Significant estimates in these unaudited consolidated financial statements include allowances on accounts receivable, inventory, and deferred taxes, as well as estimates for accrued warranty expenses, goodwill and the ability of goodwill to be realized, revenue deferrals, effects of stock-based compensation and warrants, contingent liabilities, and the provision or benefit for income taxes. Due to the inherent uncertainty involved in making estimates, actual results reported in future periods may differ materially from those estimates.

Critical Accounting Policies

Information with respect to the Company's critical accounting policies, which management believes could have the most significant effect on the Company's reported results and require subjective or complex judgments by management is contained in Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations," of the 2018 Form 10-K. Management believes that there have been no significant changes during the three months ended March 31, 2019 in the Company's critical accounting policies from those disclosed in Item 7 of the 2018 Form 10-K.

Fair Value of Financial Instruments

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants in the principal market (or, if none exists, the most advantageous market) for the specific asset or liability at the measurement date (referred to as the "exit price"). The fair value is based on assumptions that market participants would use, including a consideration of non-performance risk. Under the accounting guidance for fair value hierarchy, there are three levels of measurement inputs. Level 1 inputs are quoted prices in active markets for identical assets or liabilities. Level 2 inputs are observable, either directly or indirectly. Level 3 inputs are unobservable due to little or no corroborating market data.

The Company's financial instruments, consisting of cash, cash equivalents, restricted cash, accounts receivable, accounts payable, accrued liabilities, and the SWK Loan as discussed in Note 9, approximate fair value because of the liquid or short-term nature of these items.

Concentration of Credit Risk, Interest Rate Risk and Foreign Currency Exchange Rate

Financial instruments which potentially expose the Company to a concentration of credit risk consist principally of cash and cash equivalents, restricted cash, and trade accounts receivable. The Company maintains its cash and cash equivalents and restricted cash with established commercial banks. At times, balances may exceed federally insured limits. To minimize the risk associated with trade accounts receivable, management performs ongoing credit evaluations of customers' financial condition and maintains relationships with the Company's customers that allow management to monitor current changes in business operations so the Company can respond as needed. The Company does not, generally, require customers to provide collateral before it sells them its products. However, the Company has required certain distributors to make prepayments for significant purchases of products.

Substantially all of the Company's revenue is denominated in U.S. dollars, including sales to international distributors. Only a small portion of its revenue and expenses is denominated in foreign currencies, principally the Euro and Indian Rupee. The Company's foreign currency expenditures primarily consist of the cost of maintaining offices, consulting services, and employee-related costs. During the periods ended March 31, 2019 and 2018, the Company did not enter into any hedging contracts. Future fluctuations in the value of the U.S. dollar may affect the price competitiveness of the Company's products outside the U.S.

Recent Accounting Pronouncements

Changes to GAAP are established by the Financial Accounting Standards Board (the "FASB") in the form of accounting standards updates ("ASUs") to the FASB's Accounting Standards Codification.

The Company considers the applicability and impact of all ASUs. ASUs not listed below were assessed and determined not to be applicable or are expected to have minimal impact on the Company's consolidated financial position and results of operations.

Adopted Accounting Pronouncements

In February 2016, the FASB established ASU Topic 842 – Leases, by issuing ASU Topic No. 2016-02 ("Topic 842"), which requires lessees to recognize lease on-balance sheet and disclose key information about leasing arrangements. Topic 842 was subsequently amended by ASU Topic 2018-11 – Targeted Improvements. The new standard establishes a right-of-use model ("ROU") that requires a lessee to recognize a ROU asset and a lease liability for all leases with a term longer than 12 months. Leases will be classified as finance or operating, with classification affecting the pattern and classification of expense recognition in the statement of operations.

The Company adopted Topic 842 in the first quarter of 2019 utilizing the modified retrospective transition method and a cumulative effect adjustment at the beginning of the first quarter of 2019. The Company has elected the package of practical expedients, which allows the Company not to reassess (1) whether any expired or existing contracts as of the adoption date are or contain a lease, (2) lease classification for any expired or existing leases as of the adoption date, and (3) initial direct costs for any existing leases as of the adoption date. The Company did not elect to apply the hindsight practical expedient when determining lease term and assessing impairment of the right-to-use assets. The adoption of Topic 842 resulted in the recognition of right-of use assets of approximately \$0.8 million after a \$0.2 million adjustment for deferred rent, and lease liabilities for operating leases of approximately \$1.0 million, and no cumulative effect adjustment on retained earnings on its unaudited Consolidated Balance Sheets nor material impact to its unaudited Consolidated Statements of Operations and Comprehensive Loss in the period of adoption. Right-of-use assets are included in Prepaid and other assets, and lease liabilities are included in Accrued liabilities or Other liabilities in the unaudited consolidated balance sheet for the period ended March 31, 2019. See Note 10 — Leases, for additional information.

Recently Issued Accounting Standards

In June 2016, the FASB issued a new standard to replace the incurred loss impairment methodology under current GAAP with a methodology that reflects expected credit losses and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. The Company will be required to use a forward-looking expected credit loss model for accounts receivables, loans, and other financial instruments. Credit losses relating to available-for-sale debt securities will also be recorded through an allowance for credit losses rather than as a reduction in the amortized cost basis of the securities. The standard will be effective for the Company beginning January 1, 2020, with early adoption permitted beginning January 1, 2019. We are currently evaluating the impact of this standard on the Company's consolidated financial statements, including accounting policies, processes, and systems.

NOTE 3 – REVENUE RECOGNITION

Contracts with Customers

Revenue for sales of products and services is derived from contracts with customers. The products and services promised in customer contracts include delivery of laser systems, imaging systems, and consumables as well as certain ancillary services such as training and extended warranties. Contracts with each customer generally state the terms of the sale, including the description, quantity and price of each product or service. Payment terms are stated in the contract and vary according to the arrangement. Because the customer typically agrees to a stated rate and price in the contract that does not vary over the life of the contract, the Company's contracts do not contain variable consideration. The Company establishes a provision for estimated warranty expense.

Performance Obligations

At contract inception, the Company assesses the products and services promised in its contracts with customers. The Company then identifies performance obligations to transfer distinct products or services to the customers. In order to identify performance obligations, the Company considers all of the products or services promised in contracts regardless of whether they are explicitly stated or are implied by customary business practices.

Revenue from products and services transferred to customers at a single point in time accounted for 84% and 83% of net revenue for the three months ended March 31, 2019 and March 31, 2018, respectively. The majority of the Company's revenue recognized at a point in time is for the sale laser systems, imaging systems, and consumables. Revenue from these contracts is recognized when the customer is able to direct the use of and obtain substantially all of the benefits from the product which generally coincides with title transfer during the shipping process.

Revenue from services transferred to customers over time accounted for 16% and 17% of net revenue for the three months ended March 31, 2019 and March 31, 2018, respectively. The majority of the Company's revenue that is recognized over time relates to product training and extended warranties. Deferred revenue attributable to undelivered elements, which primarily consists of product training, totaled approximately \$0.6 million and \$0.7 million as of March 31, 2019 and December 31, 2018, respectively.

Transaction Price Allocation

The transaction price for a contract is allocated to each distinct performance obligation and recognized as revenue when, or as, each performance obligation is satisfied. For contracts with multiple performance obligations, the Company allocates the contract's transaction price to each performance obligation using the best estimate of the standalone selling price of each distinct good or service in a contract. The primary method used to estimate standalone selling price is the observable price when the good or service is sold separately in similar circumstances and to similar customers.

Significant Judgments

Revenue is recorded for extended warranties over time as the customer benefits from the warranty coverage. This revenue will be recognized equally throughout the contract period as the customer receives benefits from the Company's promise to provide such services. Revenue is recorded for product training as the customer attends a training program or upon the expiration of the obligation, which is generally after nine months.

The Company also has contracts that include both the product sales and product training as performance obligations. In those cases, the Company records revenue for product sales at the point in time when the product has been shipped. The customer obtains control of the product when it is shipped, as all shipments are made FOB shipping point, and after the customer selects its shipping method and pays all shipping costs and insurance. The Company has concluded that control is transferred to the customer upon shipment.

Accounts Receivable

Accounts receivable are stated at estimated net realizable value. The allowance for doubtful accounts is based on an analysis of customer accounts and the Company's historical experience with accounts receivable write-offs.

Contract Liabilities

The Company performs its obligations under a contract with a customer by transferring products and/or services in exchange for consideration from the customer. The Company typically invoices its customers as soon as control of an asset is transferred and a receivable for the Company is established. The Company, however, recognizes a contract liability when a customer prepays for goods and/or services and the Company has not transferred control of the goods and/or services. The opening and closing balances of the Company's contract liabilities are as follows (in thousands):

	March 31, 2019	December 31, 2018
Undelivered elements (training, installation, product and support services)	625	730
Extended warranty contracts	1,879	1,735
Deferred royalties	9	11
Total deferred revenue	2,513	2,476
Less long-term portion of deferred revenue	—	—
Total deferred revenue — long -term	—	—
Deferred revenue — current	\$ 2,513	\$ 2,476

The balance of contract assets was immaterial as the Company did not have a significant amount of uninvoiced receivables at March 31, 2019 and December 31, 2018.

The amount of revenue recognized during the three months ended March 31, 2019 that was included in the opening contract liability balance related to undelivered elements was \$0.3 million, related to extended warranty contracts was \$0.7 million and deferred royalties was \$3,000.

Disaggregation of Revenue

The Company disaggregates revenue from contracts with customers into geographical regions and by the timing of when goods and services are transferred. The Company determined that disaggregating revenue into these categories depicts how the nature, amount, timing and uncertainty of revenue and cash flows are affected by regional economic factors.

The Company's revenues related to the following geographic areas were as follows for the periods indicated (in thousands):

	Three Months Ended March 31,	
	2019	2018
United States	\$ 6,116	\$ 5,693
International	4,210	4,327
	\$ 10,326	\$ 10,020

Information regarding revenues disaggregated by the timing of when goods and services are transferred is as follows(in thousands):

	Three Months Ended March 31,	
	2019	2018
Revenue recognized over time	\$ 1,698	\$ 1,700
Revenue recognized at a point in time	8,628	8,320
Total	\$ 10,326	\$ 10,020

The Company's sales by end market were as follows for the periods indicated (in thousands):

	Three Months Ended March 31,	
	2019	2018
End-customer	\$ 6,346	\$ 6,107
Distributors	3,980	3,913
	\$ 10,326	\$ 10,020

The Company acts as the principal in all its imaging equipment distribution sales. The Company takes possession and control of the equipment before they are sold and transferred to the customer. The Company provides the equipment and any related services directly to the customer. The Company has inventory risk before the equipment is transferred to a customer. The Company purchases and obtains the goods before obtaining a contract with a customer. The Company also has discretion in establishing the price sold to the customer for the equipment.

The percentages of the Company's sales by product line were as follows for the periods indicated:

	Three Months Ended March 31,	
	2019	2018
Waterlase (laser systems)	31.8 %	35.0 %
Diodes (laser systems)	26.0 %	22.0 %
Imaging systems	5.3 %	5.8 %
Consumables and other	20.5 %	20.3 %
Services	16.4 %	16.9 %
License fees and royalties	— %	— %
	100.0 %	100.0 %

Shipping and Handling Costs and Revenues

Shipping and freight costs are treated as fulfillment costs. For shipments to end-customers, the customer bears the shipping and freight costs and has control of the product upon shipment. For shipments to distributors, the distributor bears the shipping and freight costs, including insurance, tariffs and other import/export costs.

NOTE 4—STOCKHOLDERS' EQUITY

Reverse Stock Split

At BIOLASE's annual meeting of stockholders on May 9, 2018 (the "2018 Annual Meeting"), BIOLASE stockholders approved an amendment to BIOLASE's Restated Certificate of Incorporation, as amended, to effect a reverse stock split of BIOLASE common stock and on May 10, 2018, the Company filed an amendment (the "Amendment") to its Restated Certificate of Incorporation, as amended, with the Secretary of State of the State of Delaware to effect the Reverse Stock Split, effective as of 11:59 p.m. on May 10, 2018. The Amendment also reduced the authorized shares of common stock from 200,000,000 shares to 40,000,000 shares. Prior year share and per share amounts have been adjusted to reflect the impact of the reverse stock split.

Stock-Based Compensation

2002 Stock Incentive Plan

The 2002 Stock Incentive Plan (as amended effective as of May 26, 2004, November 15, 2005, May 16, 2007, May 5, 2011, June 6, 2013, October 30, 2014, April 27, 2015, and May 6, 2016, the "2002 Plan") was replaced by the 2018 Plan (as defined below) with respect to future equity awards. Persons eligible to receive awards under the 2002 Plan included officers, employees, and directors of the Company, as well as consultants. As of March 31, 2019, a total of approximately 3.1 million shares of the Company's common stock have been authorized for issuance under the 2002 Plan, of which approximately 1.0 million shares of the Company's common stock have been issued pursuant to options that were exercised and restricted stock units ("RSUs") that were settled in common stock and 1.6 million shares of common stock have been reserved for outstanding options and unvested RSUs, and no shares are available for future grants.

2018 Stock Incentive Plan

At the 2018 Annual Meeting, the Company's stockholders approved the 2018 Long-Term Incentive Plan (as amended, the "2018 Plan") which was amended by Amendment No. 1 to the 2018 Plan, approved by the Company's stockholders at a special meeting on September 21, 2018. The purposes of the 2018 Plan are (i) to align the interests of the Company's stockholders and recipients of awards under the 2018 Plan by increasing the proprietary interest of such recipients in the Company's growth and success; (ii) to advance the interests of the Company by attracting and retaining non-employee directors, officers, other employees, consultants, independent contractors and agents; and (iii) to motivate such persons to act in the long-term best interests of the Company and its stockholders.

Subject to the terms and conditions of the 2018 Plan, the number of shares authorized for grants under the 2018 Plan is 3.3 million. As of March 31, 2019, a total 1.9 million shares of the Company's common stock have been reserved for outstanding options and unvested RSUs, and 1.4 million shares of common stock remain available for future grants.

The Company recognized stock-based compensation expense of \$0.8 million and \$0.7 million, for the three months ended March 31, 2019 and 2018, respectively, based on the grant-date fair value. Stock-based compensation expense for the three months ended March 31, 2019 and 2018 includes the reversal of \$0.1 million and \$0.0 million, respectively, resulting from the reassessment of certain performance-based equity awards. The net impact of stock-based compensation expense to earnings was \$(0.04), and \$(0.03) per basic and diluted share for the three months ended March 31, 2019 and 2018, respectively. At March 31, 2019, the Company had approximately \$2.1 million of total unrecognized compensation expense, net of estimated forfeitures, related to unvested share-based compensation arrangements. The Company expects that expense to be recognized over a weighted-average period of 2.0 years.

The following table summarizes the income statement classification of compensation expense associated with share-based payments (in thousands):

	Three Months Ended	
	March 31,	
	2019	2018
Cost of revenue	\$ 82	\$ 57
Sales and marketing	160	80
General and administrative	441	467
Engineering and development	74	97
	<u>\$ 757</u>	<u>\$ 701</u>

The stock option fair values were estimated using the Black-Scholes option-pricing model with the following assumptions:

	Three Months Ended	
	March 31,	
	2019	2018
Expected term	6.1 years	5.9 years
Volatility	86.2 %	81.4 %
Annual dividend per share	\$ —	\$ —
Risk-free interest rate	2.64 %	2.46 %

A summary of option activity for the three months ended March 31, 2019 is as follows (in thousands, except per share data):

	Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic
				Value(1)
Options outstanding, December 31, 2018	1,623	\$ 6.54		\$ —
Granted at fair market value	40	\$ 2.08		
Exercised	(2)	\$ 2.10		
Forfeited, cancelled, or expired	(93)	\$ 6.00		
Options outstanding at March 31, 2019	<u>1,568</u>	\$ 6.46	5.71	\$ —
Options exercisable at March 31, 2019	<u>1,159</u>	\$ 7.69	4.85	\$ —
Vested options expired during the quarter ended March 31, 2019	<u>11</u>	\$ 12.88		

(1) The intrinsic value calculation does not include negative values. This can occur when the fair market value on the reporting date is less than the exercise price of the grant.

A summary of unvested stock option activity for the three months ended March 31, 2019 is as follows (in thousands, except per share data):

	Shares	Weighted Average Grant Date Fair Value
		\$
Unvested options at December 31, 2018	522	\$ 2.11
Granted	40	\$ 1.53
Vested	(97)	\$ 3.52
Forfeited or cancelled	(56)	\$ 3.00
Unvested options at March 31, 2019	<u>409</u>	\$ 1.59

Cash proceeds, along with fair value disclosures related to grants, exercises and vested options are as follows (in thousands, except per share amounts):

	Three Months Ended	
	March 31,	
	2019	2018
Proceeds from stock options exercised	\$ 3	\$ 2
Tax benefit related to stock options exercised (1)	N/A	N/A
Intrinsic value of stock options exercised (2)	\$ —	\$ —
Weighted-average fair value of options granted during period	\$ 1.53	\$ 1.45
Total fair value of shares vested during the period	\$ 342	\$ 520

(1) Excess tax benefits received related to stock option exercises are presented as operating cash inflows. The Company currently does not receive a tax benefit related to the exercise of stock options due to the Company's net operating losses.

(2) The intrinsic value of stock options exercised is the amount by which the market price of the stock on the date of exercise exceeded the market price of the stock on the date of grant.

Restricted Stock Units

There were no material grants made during the three months ended March 31, 2019.

A summary of unvested RSU activity for the three months ended March 31, 2019 is as follows (in thousands, except per share amounts):

	Shares	Weighted Average Grant Date Fair Value
Unvested RSUs at December 31, 2018	2,037	\$ 1.84
Granted	40	\$ 2.08
Vested	(220)	\$ 2.28
Forfeited or cancelled	(64)	\$ 2.62
Unvested RSUs at March 31, 2019	1,793	\$ 1.76

Warrants

The Company issues warrants to acquire shares of the Company's common stock as approved by the Board. A summary of warrant activity for the three months ended March 31, 2019 is as follows (in thousands, except exercise price amounts):

	Shares	Weighted Average Exercise Price
Warrants outstanding, December 31, 2018	1,934	\$ 6.62
Granted or Issued	—	\$ —
Exercised	—	\$ —
Forfeited, cancelled, or expired	—	\$ —
Warrants outstanding at March 31, 2019	1,934	\$ 6.62
Warrants exercisable at March 31, 2019	1,906	\$ 6.43
Vested warrants expired during the quarter ended March 31, 2019	—	\$ —

See Note 9 for additional information on the Western Alliance Warrants, the SWK Warrants, and the DPG Warrants (each as defined below).

Net Loss Per Share – Basic and Diluted

Basic net loss per share is computed by dividing net loss available to common stockholders by the weighted-average number of shares of the Company's common stock outstanding for the period. In computing diluted net loss per share, the weighted average number of shares outstanding is adjusted to reflect the effect of potentially dilutive securities.

Outstanding stock options, RSUs and warrants to purchase approximately 5.7 million shares were not included in the calculation of diluted loss per share for the three months ended March 31, 2019, as their effect would have been anti-dilutive. For the same 2018 periods, anti-dilutive outstanding stock options and warrants to purchase 3.8 million shares were not included in the computation of diluted loss per share.

NOTE 5—INVENTORY

Inventory is valued at the lower of cost or net realizable value and is comprised of the following (in thousands):

	March 31, 2019	December 31, 2018
Raw materials	\$ 4,007	\$ 3,590
Work-in-process	1,306	1,435
Finished goods	6,710	7,223
Inventory, net	<u>\$ 12,023</u>	<u>\$ 12,248</u>

Inventory includes write-downs for excess and obsolete inventory totaling approximately \$1.1 million and \$1.1 million as of March 31, 2019 and December 31, 2018, respectively.

NOTE 6—PROPERTY, PLANT, AND EQUIPMENT

Property, plant, and equipment, net is comprised of the following (in thousands):

	March 31, 2019	December 31, 2018
Building	\$ 209	\$ 213
Leasehold improvements	2,004	2,004
Equipment and computers	7,291	7,277
Furniture and fixtures	634	634
Construction in progress	32	25
	10,170	10,153
Accumulated depreciation and amortization	<u>(8,599)</u>	<u>(8,344)</u>
	1,571	1,809
Land	162	166
Property, plant, and equipment, net	<u>\$ 1,733</u>	<u>\$ 1,975</u>

Depreciation and amortization expense related to property, plant, and equipment totaled \$0.3 million and \$0.3 million for the three months ended March 31, 2019 and March 31, 2018, respectively.

NOTE 7—INTANGIBLE ASSETS AND GOODWILL

The Company conducted its annual impairment test of goodwill as of June 30, 2018 and determined that there was no impairment. The Company also tests its intangible assets and goodwill between the annual impairment tests if events occur or circumstances change that would more likely than not reduce the fair value of the Company or its assets below their carrying amounts. For intangible assets subject to amortization, the Company performs its impairment test when indicators, such as reductions in demand or significant economic slowdowns, are present. No events have occurred since June 30, 2018 through the date of these unaudited consolidated financial statements that would trigger further impairment testing of the Company's intangible assets and goodwill.

As of March 31, 2019 and December 31, 2018, the Company had goodwill (indefinite life) of \$2.9 million. As of March 31, 2019 and December 31, 2018, all intangible assets have been fully amortized and no amortization expense was recognized during the three months ended March 31, 2019 and 2018.

NOTE 8—ACCRUED LIABILITIES

Accrued liabilities are comprised of the following (in thousands):

	March 31, 2019	December 31, 2018
Payroll and benefits	\$ 2,122	\$ 2,400
Patent litigation settlement	1,190	1,500
Warranty accrual, current portion	807	861
Lease liability	718	—
Accrued professional services	791	1,044
Taxes	476	714
Accrued insurance premium	189	328
Customer deposits	28	21
Other	392	670
Total accrued liabilities	<u>\$ 6,713</u>	<u>\$ 7,538</u>

Changes in the initial product warranty accrual and the expenses incurred under the Company's initial and extended warranties for the three months ended March 31, 2019 and 2018 are included within accrued liabilities on the Consolidated Balance Sheets and were as follows (in thousands):

	Three Months Ended March 31,	
	2019	2018
Balance, January 1	\$ 1,308	\$ 1,190
Provision for estimated warranty cost	239	246
Warranty expenditures	(163)	(222)
Balance, March 31	1,384	1,214
Less warranty accrual, long-term	577	124
Total warranty accrual, current portion	<u>\$ 807</u>	<u>\$ 1,090</u>

The Company's Waterlase laser systems sold worldwide are covered by a warranty against defects in material and workmanship for a period of up to 16 months domestically and up to 28 months internationally, from the date of sale by the Company or a distributor to the end-user. The Company's Diode systems sold worldwide are covered by a warranty against defects in material and workmanship for a period of up to 28 months from the date of sale by the Company or a distributor to the end-user.

NOTE 9—DEBT

The following table presents the details of the principal outstanding and unamortized discount (in thousands):

	March 31, 2019	December 31, 2018
Term loan	\$ 12,500	\$ 12,500
Discount and debt issuance costs on term loan	(1,594)	(1,664)
Total long-term debt, net	<u>\$ 10,906</u>	<u>\$ 10,836</u>

Line of Credit

On March 6, 2018, the BIOLASE and two of its wholly-owned subsidiaries (such subsidiaries, together with BIOLASE, the “Borrower”) entered into the Business Financing Agreement (the “Business Financing Agreement”) with Western Alliance Bank (“Western Alliance”). Pursuant to the terms and conditions of the Business Financing Agreement, Western Alliance agreed to provide the Borrower a secured revolving line of credit permitting the Borrower to borrow or receive letters of credit up to the lesser of \$6.0 million (the “Domestic Revolver”) (subject to a \$6.0 million credit limit relating to domestic eligible accounts receivable (the “domestic credit limit”) and a \$3.0 million credit limit relating to export-related (the “EXIM Revolver”) eligible accounts receivable (the “EXIM credit limit”)) and the borrowing base, which is defined as the sum of the domestic borrowing base (up to 75% of the Borrower’s eligible domestic accounts receivable less such reserves as Western Alliance may deem proper and necessary) and the export-related borrowing base (up to 85% of the Borrower’s eligible export-related accounts receivable less such reserves as Western Alliance may deem proper and necessary). The Business Financing Agreement was set to expire on March 6, 2020, and the Borrower’s obligations thereunder were secured by a security interest in all of the Borrower’s assets.

The Business Financing Agreement required the Company to maintain compliance with certain financial and non-financial covenants, as defined therein. Western Alliance had the right to declare the amounts outstanding under the Business Financing Agreement immediately due and payable upon a default.

Amounts outstanding under the Business Financing Agreement bore interest at a per annum floating rate equal to the greater of 4.5% or the “Prime Rate” published in the Money Rates section of the Western Edition of The Wall Street Journal (or such other rate of interest publicly announced from time to time by Western Alliance as its “Prime Rate”), plus 1.5% with respect to advances made under the line of credit, plus an additional 5.0% during any period that an event of default occurred and was continuing. The commitment fee under the Business Financing Agreement was 0.25% of the domestic credit limit and 1.75% of the EXIM credit limit, payable on March 6, 2018 and each anniversary thereof.

Pursuant to the Business Financing Agreement, the Company paid the first of two annual commitment fees totaling \$67,500, being 0.25% of the aggregate \$6.0 million commitment for the Domestic Revolver and 1.75% of the aggregate \$3.0 million commitment for the EXIM Revolver. The commitment fees and the legal costs associated with acquiring the credit facilities were capitalized and were amortized on a straight-line basis as interest expense over the term of the Business Financing Agreement.

As additional consideration for the lines of credit, the Company also issued to Western Alliance warrants (the (“Original Western Alliance Warrants”). The fair value of the Western Alliance Warrants was estimated using the Black-Scholes option-pricing model with the following assumptions: expected term of 10 years; volatility of 91.49%; annual dividend per share of \$0.00; and risk-free interest rate of 2.88%; and resulted in an estimated fair value of \$0.1 million, which was recorded as a liability and resulted in a discount to the credit facilities at issuance. The discount was expensed to interest expense at the time the Business Financing Agreement was terminated, as discussed below.

On August 13, 2018, the Borrower and Western Alliance entered into a Waiver and Business Financing Modification Agreement, pursuant to which Western Alliance waived certain of the Borrower's covenants under the Business Financing Agreement and provided an advance of \$1.5 million, which advance was due by September 27, 2018.

On September 27, 2018, the Borrower and Western Alliance entered into a second Business Financing Modification Agreement which reduced the credit limit under the Business Financing Agreement to \$2.5 million and extended the due date of the \$1.5 million advance to March 6, 2019. In connection with the agreement, the Original Western Alliance Warrants were terminated, and the Company issued to Western Alliance new warrants (the "Western Alliance Warrants") to purchase up to 56,338 shares of the Company's common stock. The Western Alliance Warrants are immediately exercisable and expire on September 27, 2028. These warrants contain down-round features that require the Company to adjust the exercise price proportionately should the Company issue shares at a price less than the \$2.13 per share exercise price.

On October 22, 2018, the Borrower and Western Alliance entered into a third Business Financing Modification Agreement, pursuant to which Western Alliance waived BIOLASE's non-compliance with certain financial operating covenants as set forth in the Business Financing Agreement, and the Borrower agreed to certain amended covenants contained in the Business Financing Agreement, including a \$300,000 minimum unrestricted cash balance covenant and a waiver of reporting items required to be delivered by BIOLASE to Western Alliance under the Business Financing Agreement.

On November 9, 2018, all outstanding borrowings, accrued interest and fees under the Business Financing Agreement were repaid with a portion of the proceeds under the Credit Agreement (as defined and described below), and the Business Financing Agreement was terminated. The Company recorded approximately \$0.1 million of interest expense including unamortized debt issuance costs that were written-off upon extinguishment of the debt. As of March 31, 2019 and December 31, 2018, the Western Alliance Warrants remain outstanding and are classified in equity in the consolidated balance sheet.

Term Loan

On November 9, 2018, the Company entered into a five-year secured Credit Agreement (the "Credit Agreement") with SWK Funding LLC ("SWK"), pursuant to which the Company has borrowed \$12.5 million (the "SWK Loan"). The Company's obligations under the Credit Agreement are secured by substantially all of the Company's assets. Under the terms of the Credit Agreement, repayment of the loan is interest-only for the first two years, paid quarterly with the option to extend the interest-only period. Principal repayments will begin in the first quarter of 2021 and will be approximately \$0.7 million quarterly until the loan matures in the fourth quarter of 2023. The loan bears interest at London Interbank Bank Offered Rate ("LIBOR") plus 10% or another index that approximates LIBOR as close as possible if and when LIBOR no longer exists. Approximately \$0.9 million of the proceeds from the SWK Loan were used to pay off all amounts owed to Western Alliance under the Business Financing Agreement. The Company plans to use the remaining proceeds to provide additional working capital to fund its growth initiatives, such as broadening its customer base and increasing the utilization of its products to drive recurring higher margin consumables revenue.

The Credit Agreement contains financial and non-financial covenants requiring the Company to, among other things, (i) maintain unencumbered liquid assets of no less than \$1.5 million or the sum of aggregate cash flow from operations less capital expenditures, ii) achieve certain revenue and EBITDA levels during the first two years of the loan, (iii) limit future borrowing, investments and dividends, and (iv) submit monthly and quarterly financial reporting.

In connection with the SWK Loan, the Company paid approximately \$1.0 million in debt issuance costs, including a \$0.2 million loan origination fee, a \$0.4 million finder's fee, and \$0.4 million in legal and other fees. These costs were recognized as a discount on the SWK Loan and are being amortized on a straight-line basis over the loan term which approximates the effective-interest method.

The Company recognized approximately \$0.5 million in interest expense relating to the SWK Loan for the period ended March 31, 2019. The weighted-average interest rate for the three months ended March 31, 2019 was 12.7%.

As of March 31, 2019, the Company was not in compliance with certain covenants in the Credit Agreement. In May 2019, SWK granted the Company a waiver of such covenants. On May 7, 2019, the Company and SWK agreed to amend the Credit Agreement to increase the total commitment in the SWK Loan from \$12.5 million to \$15.0 million and to revise certain of the financial covenants. Further details of the amendment are described in Note 15 below.

SWK Warrants

In connection with the Credit Agreement, the Company issued warrants to SWK (the “SWK Warrants”) on November 9, 2018, to purchase up to 372,023 shares of the Company’s common stock. The SWK Warrants are immediately exercisable and expire on November 9, 2026. The exercise price of the SWK Warrants is \$1.34, which was the average closing price of the Company’s common stock for the ten trading days immediately preceding November 9, 2018. These warrants contain down-round features that require the Company to adjust the exercise price proportionately should the Company issue shares at a price per share less than the exercise price. The fair value of the SWK Warrants was estimated using the Black-Scholes option-pricing model with the following assumptions: expected term of 8 years; volatility of 81.79%; annual dividend per share of \$0.00; and risk-free interest rate of 3.13%; and resulted in an estimated fair value of \$0.4 million.

DPG Warrants

In connection with the SWK Loan, the Company paid a finder’s fee to Deal Partners Group of \$0.4 million cash and issued warrants to purchase up to 279,851 shares of common stock (the “DPG Warrants”). The DPG Warrants were issued on November 14, 2018, were exercisable immediately, and expire on November 9, 2026. The exercise price of the DPG Warrants is \$1.34 which was the average closing price of the Company’s common stock for the ten trading days immediately preceding November 9, 2018. These warrants contain down-round features that require the Company to adjust the exercise price proportionately should the Company issue shares at a price per share less than the exercise price. The fair value of the DPG Warrants of \$0.3 million was estimated using the Black Scholes option pricing model with the following assumptions: expected term of 8 years; volatility of 81.79%; annual dividend per share of \$0.00; and risk-free interest rate of 3.13%.

The value of both the SWK Warrants and the DPG Warrants was recognized as a discount on the SWK Loan and are being amortized on a straight-line basis which approximates the effective-interest method, over the loan term of five years. Additionally, based on the adoption of ASU 2017-11 in the fourth quarter of 2018, these warrants are classified as equity in the consolidated balance sheet as of March 31, 2019.

The future minimum principal and interest payments as of March 31, 2019 are as follows (in thousands):

	Principal	Interest (1)
2019	\$ —	\$ 1,171
2020	700	1,554
2021	2,800	1,314
2022	2,800	964
2023	6,200	493
Total future payments	<u>\$ 12,500</u>	<u>\$ 5,496</u>

(1) estimated using LIBOR rates as at March 31, 2019

NOTE 10— LEASES

The Company enters into operating leases primarily for real estate, office equipment, and fleet vehicles. Lease terms generally range from one to five years, and often include options to renew for one year. On January 1, 2019, the Company adopted Topic 842, using the modified-retrospective approach as discussed in Note 2, and as a result recognized a right-of-use asset of approximately \$0.8 million as adjusted for deferred rent at the date of adoption of \$0.2 million, and a lease liability of approximately \$1.0 million. No cumulative-effect adjustment to retained earnings was required upon adoption of Topic 842. Right-of-use assets are recorded in Prepaid and other assets and lease liabilities are included in Accrued liabilities or Other liabilities depending on whether they are current or noncurrent. Because the rate implicit in each lease is not readily determinable, the Company uses its incremental borrowing rate (“IBR”) to determine the present value of the lease payments and on the date of adoption, the Company determined its IBR to be 12.78%. This rate was based on the Company’s financing of the SWK Loan which is a collateralized loan, and was based on prevailing market rates during the fourth quarter of 2018.

Information related to the Company’s right-of-use assets and related liabilities were as follows (in thousands):

	Three Months Ended March 31, 2019
Cash paid for operating lease liabilities	\$ 189
Right-of-use assets obtained in exchange for new operating lease obligations	803
Weighted-average remaining lease term	1.6 years
Weighted-average discount rate	12.8 %

The Company allocates lease cost amongst lease and non-lease components. The Company excludes short-term leases (those with lease terms of less than one year at inception) from the measurement of lease liabilities or right-of-use assets.

Maturities of lease liabilities as of March 31, 2019 were as follows (in thousands):

Due in 12-month period ended March 31,	
2020	\$ 812
2021	192
Thereafter	—
	<u>\$ 1,004</u>
Less imputed interest	(180)
Total lease liabilities	<u>\$ 824</u>
Current operating lease liabilities	718
Non-current lease liabilities	106
Total lease liabilities	<u>\$ 824</u>

As of March 31, 2019, right-of-use assets were \$0.7 million and lease liabilities were \$0.8 million. During the three months ended March 31, 2019, the Company did not enter into any new lease arrangements, nor did it have any arrangements that had not commenced.

Future minimum rental commitments under lease agreements, as of December 31, 2018, with non-cancelable terms greater than one year for each of the years ending December 31 are as follows (in thousands):

	Year Ended December 31, 2018
2019	\$ 802
2020	313
2021	33
2022 and thereafter	—
Total future minimum lease obligations	<u>\$ 1,148</u>

NOTE 11— COMMITMENTS AND CONTINGENCIES

On April 24, 2012, CAO Group, Inc. (“CAO”) filed a lawsuit against BIOLASE in the District of Utah alleging that BIOLASE’s ezlase dental laser infringes on U.S. Patent No. 7,485,116 (the “116 Patent”). On September 9, 2012, CAO amended its complaint, adding claims for (1) business disparagement/injurious falsehood under common law and (2) unfair competition under 15 U.S.C. Section 1125(a). The additional claims stem from a press release that BIOLASE issued on April 30, 2012, which CAO claims contained false statements that are disparaging to CAO and its diode product. The amended complaint sought injunctive relief, treble damages, attorneys’ fees, punitive damages, and interest. Until January 24, 2018, this lawsuit was stayed in connection with United States Patent and Trademark Office proceedings relating to the 116 Patent, which proceedings ultimately culminated in a January 27, 2017 decision by the United States Court of Appeals for the Federal Circuit, affirming the findings of the Patent Trial and Appeal Board, which were generally favorable to the Company. On January 25, 2018, CAO moved for leave to file a second amended complaint to add certain claims, which filing the Company is not opposing.

On January 23, 2018, CAO filed a lawsuit against BIOLASE in the Central District of California alleging that BIOLASE’s diode lasers infringe on U.S. Patent Nos. 8,337,097, 8,834,497, 8,961,040 and 8,967,883. The complaint seeks injunctive relief, treble damages, attorneys’ fees, punitive damages, and interest.

On January 25, 2019 (the “Effective Date”), BIOLASE entered into a settlement agreement (the “Settlement Agreement”) with CAO. Pursuant to the Settlement Agreement, CAO agreed to dismiss with prejudice the lawsuits filed by CAO against the Company in April 2012 and January 2018. In addition, CAO granted to the Company and its affiliates a non-exclusive, non-transferable (except as provided in the Settlement Agreement), royalty-free, fully-paid, worldwide license to the licensed patents for use in the licensed products and agreed not to sue the Company, its affiliates or any of its manufacturers, distributors, suppliers or customers for use of the licensed patents in the licensed products, and the parties agreed to a mutual release of claims. The Company has agreed (i) to pay to CAO, within five days of the Effective Date, \$500,000 in cash, (ii) to issue to CAO, within 30 days of the Effective Date, 500,000 restricted shares of common stock of the Company (the “Stock Consideration”), and (iii) to pay to CAO, within 30 days of December 31, 2021, an amount in cash equal to the difference (if positive) between \$1,000,000 and the value of the Stock Consideration on December 31, 2021. The Stock Consideration vests and becomes transferrable on December 31, 2021, subject to the terms of a restricted stock agreement to be entered into between the parties. The Company considered this a Type I subsequent event and recognized a \$1.5 million contingent loss on patent litigation settlement in its statement of operations for the year ended December 31, 2018. In January 2019, the Company paid CAO \$500,000 in cash. On January 31, 2019, the case was dismissed with prejudice. During the three-month period ended March 31, 2019, the Company recorded an additional loss on patent litigation of \$0.2 million which represents the change in fair value of the restricted stock to be issued to CAO, resulting in a total \$1.2 million accrued liability as of March 31, 2019.

NOTE 12—SEGMENT INFORMATION

The Company currently operates in a single business segment. Management uses one measurement of profitability and does not segregate its business for internal reporting. For the three months ended March 31, 2019, sales to customers in the United States accounted for approximately 59% of net revenue and international sales accounted for approximately 41% of net revenue, respectively. No individual country, other than the United States, represented more than 10% of total net revenue during the three months ended March 31, 2019 or 2018.

Net revenue by geographic location based on the location of customers was as follows (in thousands):

	Three Months Ended March 31,	
	2019	2018
United States	\$ 6,116	\$ 5,693
International	4,210	4,327
	<u>\$ 10,326</u>	<u>\$ 10,020</u>

Property, plant, and equipment by geographic location was as follows (in thousands):

	March 31, 2019	December 31, 2018
United States	\$ 1,440	\$ 1,673
International	293	302
	<u>\$ 1,733</u>	<u>\$ 1,975</u>

NOTE 13—CONCENTRATIONS

Revenue from the Company's products for the three months ended March 31, 2019 and 2018 are as follows (dollars in thousands):

	Three Months Ended March 31,			
	2019		2018	
Laser systems	\$ 5,964	57.8%	\$ 5,703	57.0%
Imaging systems	552	5.3%	583	5.8%
Consumables and other	2,112	20.5%	2,034	20.3%
Services	1,695	16.4%	1,697	16.9%
License fees and royalties	3	—%	3	—%
Total revenue	<u>\$ 10,326</u>	<u>100.0%</u>	<u>\$ 10,020</u>	<u>100.0%</u>

No individual customer represented more than 10% of the Company's revenue for the three months ended March 31, 2019 or 2018.

The Company maintains its cash and cash equivalent accounts with established commercial banks. Such cash deposits periodically exceed the Federal Deposit Insurance Corporation insured limit.

One individual customer represented more than 10% of the Company's accounts receivable at March 31, 2019 and December 31, 2018.

The Company currently purchases certain key components of its products from single suppliers. Although there are a limited number of manufacturers of these key components, management believes that other suppliers could provide similar key components on comparable terms. A change in suppliers, however, could cause delays in manufacturing and a possible loss of sales, which could adversely affect the Company's business, results of operations and financial condition.

NOTE 14—INCOME TAXES

The Company accounts for income taxes under the asset and liability method, whereby deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. Management evaluates the need to establish a valuation allowance for deferred tax assets based upon the amount of existing temporary differences, the period in which they are expected to be recovered, and expected levels of taxable income. A valuation allowance to reduce deferred tax assets is established when it is “more likely than not” that some or all of the deferred tax assets will not be realized. Based on the Company’s net losses in prior years, management has determined that a full valuation allowance against the Company’s net deferred tax assets is appropriate.

Accounting for uncertainty in income taxes prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return and provides guidance on de-recognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition. The Company has elected to classify interest and penalties as a component of its income tax provision. With respect to the liability for unrecognized tax benefits, including related estimates of penalties and interest, the Company did not record a liability for unrecognized tax benefits for the three months ended March 31, 2019 and 2018. The Company does not expect any changes to its unrecognized tax benefit for the next 12 months that would materially impact its consolidated financial statements.

During the three months ended March 31, 2019 and 2018, the Company recorded an income tax provision of \$15,000 and \$32,000, respectively, resulting in an effective tax rate of 0.3% and 0.6%, respectively. The income tax provisions for the three months ended March 31, 2019 and 2018 were calculated using the discrete year-to-date method. The effective tax rate differs from the statutory tax rate of 21% primarily due to the existence of valuation allowances against net deferred tax assets and current liabilities resulting from the estimated state income tax liabilities and foreign tax liability.

NOTE 15—SUBSEQUENT EVENT

As of March 31, 2019, the Company was not in compliance with certain covenants in the Credit Agreement, as described in Note 9. In May 2019, SWK granted the Company a waiver of such covenants. On May 7, 2019, the Company and SWK agreed to amend the Credit Agreement to increase the total commitment from \$12.5 million to \$15.0 million, and to revise the financial covenants to (a) adjust minimum revenue and EBITDA levels, (b) require the Company to have a shelf registration statement declared effective by the SEC before September 30, 2019, with a proposed maximum aggregate offering price of at least \$10.0 million if the Company does not reach set minimum revenue levels for the three-month period ended June 30, 2019, and (c) require minimum liquidity of \$1.5 million at all times and if aggregate minimum revenue and EBITDA levels are not achieved by September 30, 2019, the minimum liquidity requirement will be increased to \$3.0 million, until the Company has obtained additional equity or debt funding of no less than \$5.0 million.

In connection with the amendment, the Company will pay to SWK loan origination and other fees of approximately \$0.2 million payable in cash and approximately \$0.3 million in additional SWK Warrants to purchase the Company’s common stock. The Company will also pay an additional finder’s fee to DPG, as defined and described in Note 9, of approximately \$0.1 million in cash and \$0.1 million in additional DPG Warrants to purchase the Company’s common stock.

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

The following information should be read in conjunction with the unaudited consolidated financial statements and related notes of BIOLASE, Inc. ("BIOLASE") and its consolidated subsidiaries (together with BIOLASE, the "Company," "we," "our," or "us") included elsewhere in this Quarterly Report on Form 10-Q (this "Form 10-Q") and our audited consolidated financial statements and related notes included in the Annual Report on Form 10-K for the year ended December 31, 2018 filed with the Securities and Exchange Commission (the "SEC") on March 8, 2019 (the "2018 Form 10-K"). In addition to historical information, this discussion and analysis contains "forward-looking statements" as defined in Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Such forward-looking statements include statements, predictions, or expectations regarding market opportunities, our plans to expand our product line and clinical applications, plans to explore potential collaborations, statements regarding the effects of seasonality on revenue, operating expenses, anticipated use of proceeds from debt financing, anticipated cash needs, needs for additional financing, and any other statement that is not historical fact. Forward-looking statements are identified by the use of words such as "may," "might," "will," "intend," "should," "could," "can," "would," "continue," "expect," "believe," "anticipate," "estimate," "predict," "outlook," "potential," "plan," "seek," and similar expressions and variations or the negatives of these terms or other comparable terminology.

The forward-looking statements contained in this Form 10-Q are based on the expectations, estimates, projections, beliefs, and assumptions of our management based on information available to management as of the date on which this Form 10-Q was filed with the SEC, all of which are subject to change. Forward-looking statements are subject to risks, uncertainties, and other factors that are difficult to predict and could cause actual results to differ materially from those stated or implied by our forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to:

- global economic uncertainty and volatility in financial markets;
- inability to raise additional capital on terms acceptable to us;
- our relationships with, and the efforts of, third-party distributors;
- failure in our efforts to train dental practitioners or to overcome the hesitation of dentists and patients to adopt laser technologies;
- inconsistencies between future data and our clinical results;
- competition from other companies, including those with greater resources;
- our inability to successfully develop and commercialize enhanced or new products that remain competitive with products or alternative technologies developed by others;
- the inability of our customers to obtain third-party reimbursement for their use of our products;
- limitations on our ability to use net operating loss carryforwards;
- problems in manufacturing our products;
- warranty obligations if our products are defective;
- adverse publicity regarding our technology or products;

- adverse events to our patients during the use of our products, regardless of whether caused by our products;
- issues with our suppliers, including the failure of our suppliers to supply us with a sufficient amount or adequate quality of materials;
- rapidly changing standards and competing technologies;
- our inability to effectively manage and implement our growth strategies;
- risks associated with operating in international markets, including potential liabilities under the Foreign Corrupt Practices Act;
- breaches of our information technology systems;
- seasonality;
- litigation, including the failure of our insurance policies to cover certain expenses relating to litigation and our inability to reach a final settlement related to certain litigations;
- disruptions to our operations at our primary facility;
- loss of our key management personnel or our inability to attract or retain qualified personnel;
- risks and uncertainties relating to acquisitions, including difficulties integrating acquired businesses successfully into our existing operations and risks of discovering previously undisclosed liabilities;
- failure to comply with the reporting obligations of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) and Section 404 of the Sarbanes-Oxley Act of 2002, as amended or maintain adequate internal control over financial reporting;
- climate change initiatives;
- failure of our intellectual property rights to adequately protect our technologies and potential third-party claims that our products infringe their intellectual property rights;
- changes in government regulation or the inability to obtain or maintain necessary governmental approvals;
- our failure to comply with existing or new laws and regulations, including fraud and abuse and health information privacy and securities laws;
- changes in the regulatory requirements of the Food and Drug Administration (“FDA”) applicable to laser products, dental devices, or both;
- recall or other regulatory action concerning our products after receiving FDA clearance or approval; and
- risks relating to ownership of our common stock, including low liquidity, low trading volume, high volatility and dilution.

Further information about factors that could materially affect the Company, including our results of operations and financial condition, is contained under “Risk Factors” in Item 1A in the 2018 Form 10-K and in Item 1A to this Form 10-Q. Except as required by law, we undertake no obligation to revise or update any forward-looking statements to reflect changed assumptions, the occurrence of anticipated or unanticipated events, new information or changes to future results over time or otherwise.

Overview

We are a medical device company that develops, manufactures, markets, and sells laser systems in dentistry and medicine and also markets, sells, and distributes dental imaging equipment, and digital dentistry software. Our products advance the practice of dentistry and medicine for patients and health care professionals. Our proprietary dental laser systems allow dentists, periodontists, endodontists, oral surgeons, and other dental specialists to perform a broad range of minimally invasive dental procedures, including cosmetic, restorative, and complex surgical applications. Our laser systems are designed to provide clinically superior results for many types of dental procedures compared to those achieved with drills, scalpels, and other conventional instruments. We have clearance from the FDA to market and sell our laser systems in the United States and also have the necessary registration to market and sell our laser systems in Canada, the European Union, and many other countries outside the United States. Additionally, our in-licensed imaging equipment and related products improve diagnoses, applications, and procedures in dentistry and medicine.

We offer two categories of laser system products: Waterlase (all-tissue) systems and Diode (soft-tissue) systems. Our flagship brand, the Waterlase, uses a patented combination of water and laser energy to perform most procedures currently performed using drills, scalpels, and other traditional dental instruments for cutting soft and hard tissue. We also offer our Diode laser systems to perform soft tissue, pain therapy, and cosmetic procedures, including teeth whitening. We have approximately 255 issued and 73 pending U.S. and international patents, the majority of which are related to Waterlase technology. From 1998 through March 31, 2019, we sold over 39,600 laser systems in over 80 countries around the world. Contained in this total are approximately 13,100 Waterlase systems, including over 8,900 Waterlase MD, MDX, Express and iPlus systems.

Business and Outlook

Our Waterlase systems precisely cut hard tissue, bone, and soft tissue with minimal or no damage to surrounding tissue and dental structures. Our Diode systems, which include the Epic system, are designed to complement our Waterlase systems, and are used only in soft tissue procedures, pain therapy, hygiene, and cosmetic applications, including teeth whitening. The Diode systems, together with our Waterlase systems, offer practitioners a broad product line with a range of features and price points.

We also manufacture and sell consumable products and accessories for our laser systems. Our Waterlase and Diode systems use disposable laser tips of differing sizes and shapes depending on the procedure being performed. We also market flexible fibers and hand pieces that dental practitioners replace at some point after initially purchasing laser systems. For our Epic systems, we sell teeth whitening gel kits.

Due to the limitations associated with traditional and alternative dental instruments, we believe there is a large market opportunity for all-tissue dental laser systems that provide superior clinical outcomes, reduce the need to use anesthesia, help reduce trauma, pain, and discomfort associated with dental procedures, and increase patient acceptance for treatment protocols. We also believe there is a large market opportunity for digital radiography systems and CAD/CAM intra-oral scanners that improve practice efficiency and accuracy of diagnosis, leading to superior treatment planning, increased practice revenue, and healthier outcomes for patients.

Our strategy is to increase awareness and demand for (i) our products among dental practitioners by educating dental practitioners and patients about the clinical benefits of our product suite and (ii) our laser systems among patients by educating patients about the clinical benefits of the Waterlase and Diode systems. An important goal of ours is to increase consumables revenue by selling more single-use accessories used by dental practitioners when performing procedures using our dental laser systems. In the short term, we are striving for operating excellence through lean enterprise initiatives, with a specific focus on our sales strategy and cash flow management, coupled with optimizing our engineering capabilities to develop innovative new products.

We also seek to create value through innovation and leveraging existing technologies into adjacent medical applications. We plan to expand our product line and clinical applications by developing enhancements and transformational innovations, including new clinical solutions for dental applications and for other adjacent medical applications. In particular, we believe that our existing technologies can provide significant improvements over existing standards of care in fields including ophthalmology, otolaryngology, orthopedics, podiatry, pain management, aesthetics/dermatology, veterinary, and consumer products. We plan to continue to explore potential collaborations to apply our proprietary laser technologies with expanded FDA-cleared indications to other medical applications in the future.

Recent Developments

As of March 31, 2019, we were not in compliance with certain covenants relating to the SWK Loan as defined and described in Part I, Item I, Note 9 above. In May 2019, SWK Funding, LLC (“SWK”) granted us a waiver of such covenants by SWK. Additionally, on May 7, 2019, we entered into an amendment to our Credit Agreement with SWK to increase the total commitment in the SWK Loan from \$12.5 million to \$15.0 million, to revise certain of the financial covenants and to issue additional warrants to purchase shares of BIOLASE common stock. See Part I, Item I, Note 15 for additional information.

Critical Accounting Policies

The unaudited consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”) which require us to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the consolidated financial statements and revenues and expenses reported during the period. Information with respect to our critical accounting policies that we believe could have the most significant effect on our reported results and require subjective or complex judgments by management is contained in Item 7, “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” of the 2018 Form 10-K. There have been no significant changes during the three months ended March 31, 2019 in our critical accounting policies from those disclosed in Item 7 of the 2018 Form 10-K.

Effective May 10, 2018, the Company effectuated a one-for-five reverse stock split (the “Reverse Stock Split”). In connection with the Reverse Stock Split, the number of authorized shares of BIOLASE common stock was reduced from 200,000,000 shares to 40,000,000 shares. All prior period share and per share amounts (including exercises and closing market prices) contained in this discussion have been adjusted to reflect the impact of the Reverse Stock Split.

Results of Operations

The following table sets forth certain data from our unaudited consolidated statements of operations expressed as percentages of net revenue:

	Three Months Ended		Three Months Ended	
	March 31,		March 31,	
	2019		2018	
Products and services	\$ 10,323	100.0 %	\$ 10,017	100.0 %
License fees and royalty	3	— %	3	— %
Net revenue	10,326	100.0 %	10,020	100.0 %
Cost of revenue	6,804	65.9 %	6,987	69.7 %
Gross profit	3,522	34.1 %	3,033	30.3 %
Operating expenses:				
Sales and marketing	3,879	37.6 %	3,891	38.8 %
General and administrative	2,393	23.2 %	3,037	30.3 %
Engineering and development	1,424	13.8 %	1,289	12.9 %
Change in fair value of patent litigation settlement liability	190	1.8 %	—	0.0 %
Total operating expenses	7,886	76.4 %	8,217	82.0 %
Loss from operations	(4,364)	(42.3) %	(5,184)	(51.7) %
Non-operating loss (income), net	521	5.0 %	(195)	1.9 %
Loss before income taxes	(4,885)	(47.3) %	(4,989)	(49.8) %
Income tax provision	15	0.1 %	32	0.3 %
Net loss	\$ (4,900)	(47.4) %	\$ (5,021)	(50.1) %

Non-GAAP Disclosure

In addition to the financial information prepared in conformity with GAAP, we provide certain historical non-GAAP financial information. Management believes that these non-GAAP financial measures assist investors in making comparisons of period-to-period operating results and that, in some respects, these non-GAAP financial measures are more indicative of the Company's ongoing core operating performance than their GAAP equivalents.

Management believes that the presentation of this non-GAAP financial information provides investors with greater transparency and facilitates comparison of operating results across a broad spectrum of companies with varying capital structures, compensation strategies, derivative instruments, and amortization methods, which provides a more complete understanding of our financial performance, competitive position, and prospects for the future. However, the non-GAAP financial measures presented in this Form 10-Q have certain limitations in that they do not reflect all of the costs associated with the operations of our business as determined in accordance with GAAP. Therefore, investors should consider non-GAAP financial measures in addition to, and not as a substitute for, or as superior to, measures of financial performance prepared in accordance with GAAP. Further, the non-GAAP financial measures presented by the Company may be different from similarly named non-GAAP financial measures used by other companies.

Non-GAAP Net Loss

Management uses non-GAAP net loss (defined as net loss before interest, taxes, depreciation and amortization and stock-based compensation) in its evaluation of the Company's core results of operations and trends between fiscal periods and believes that these measures are important components of its internal performance measurement process. Management believes that this non-GAAP financial information reflects an additional way of viewing aspects of our business that, when viewed with our GAAP results, provides a more complete understanding of factors and trends affecting our business. The following table contains a reconciliation of non-GAAP net loss to GAAP net loss attributable to common stockholders (in thousands):

	Three Months Ended	
	March 31,	
	2019	2018
GAAP net loss attributable to common stockholders	\$ (4,900)	\$ (5,021)
Deemed dividend on convertible preferred stock	—	—
GAAP net loss	\$ (4,900)	\$ (5,021)
Adjustments:		
Interest expense, net	478	12
Income tax provision	15	32
Depreciation and amortization	258	264
Change in fair value of patent litigation settlement liability	190	—
Stock-based and other non-cash compensation	757	701
Non-GAAP net loss	\$ (3,202)	\$ (4,012)

Comparison of Results of Operations

Three months ended March 31, 2019 and March 31, 2018

Net Revenue: The following table summarizes our unaudited net revenues by category, including each category's percentage of our total revenue, for the three months ended March 31, 2019 and March 31, 2018, as well as the amount of change and percentage of change in each revenue category (dollars in thousands):

	Three Months Ended			Three Months Ended		
	March 31,			March 31,		
	2019			2018		
Laser systems	\$ 5,964	57.8 %		\$ 5,703	57.0 %	
Imaging systems	552	5.3 %		583	5.8 %	
Consumables and other	2,112	20.5 %		2,034	20.3 %	
Services	1,695	16.4 %		1,697	16.9 %	
Total products and services	10,323	100.0 %		10,017	100.0 %	
License fees and royalty	3	— %		3	— %	
Net revenue	\$ 10,326	100.0 %		\$ 10,020	100.0 %	

Typically, we experience fluctuations in revenue from quarter to quarter due to seasonality. Revenue in the first quarter typically is lower than average, and revenue in the fourth quarter typically is stronger than average, due to the buying patterns of dental practitioners. We believe that this trend exists because a significant number of dentists purchase their capital equipment towards the end of the calendar year in order to maximize their practice earnings while seeking to minimize their taxes. They often use certain tax incentives, such as accelerated depreciation methods for purchasing capital equipment, as part of their year-end tax planning. In addition, revenue in the third quarter may be affected by vacation patterns which can cause revenue to be flat or lower than in the second quarter of the year. Our historical seasonal fluctuations may also be impacted by sales promotions used by large dental distributors that encourage end-of-quarter and end-of-year buying in our industry.

The following table summarizes our unaudited netrevenue by geographic location based on the location of customers for the three months ended March 31, 2019 and March 31, 2018, as well as the amount of change and percentage of change in each geographic revenue category, (dollars in thousands):

	Three Months Ended March 31, 2019		Three Months Ended March 31, 2018		Amount Change	Percent Change
United States	\$ 6,116	59.2 %	\$ 5,693	56.8 %	\$ 423	7.4 %
International	4,210	40.8 %	4,327	43.2 %	(117)	(2.7) %
Net revenue	<u>\$ 10,326</u>	<u>100.0 %</u>	<u>\$ 10,020</u>	<u>100.0 %</u>	<u>\$ 306</u>	<u>3.1 %</u>

Total net revenue increased by \$0.3 million or 3.1% during the three months ended March 31, 2019 as compared to the same period in 2018. In the U.S., net revenue increased by \$0.4 million, or 7.4%, primarily from laser systems sales, which increased by \$0.4 million, or 18%, during the three months ended March 31, 2019 compared to the same period in 2018. Outside the U.S., net revenue declined by \$0.1 million, or 2.7% during the three months ended March 31, 2019 as compared to the same period in 2018, primarily due to the decline in sales of our laser products outside the U.S. of \$0.1 million, or 3.5%, during the three months ended March 31, 2019 compared to the same period in 2018. Sales of consumables and other revenue, which consists of consumable products such as disposable tips, increased by \$0.1 million, or 4% domestically, and \$0.1 million, or 3.5% internationally during the three months ended March 31, 2019 as compared to the same period in 2018.

Partially offsetting increases in laser systems revenue and consumables and other revenue was a decrease in imaging systems revenue. Imaging systems revenue decreased by \$0.1 million or 5.3% during the three months ended March 31, 2019 as compared to the same period in 2018, primarily driven by our continued focus on laser sales.

Cost of Revenue and Gross Profit: The following table summarizes our unaudited cost of revenue and gross profit for the for the three months ended March 31, 2019 and March 31, 2018, as well as the amount of change and percentage of change (dollars in thousands):

	Three Months Ended March 31, 2019		Three Months Ended March 31, 2018		Amount Change	Percent Change
Net revenue	\$ 10,326	100.0 %	\$ 10,020	100.0 %	\$ 306	3.1 %
Cost of revenue	6,804	65.9 %	6,987	69.7 %	(183)	(2.6) %
Gross profit	<u>\$ 3,522</u>	<u>34.1 %</u>	<u>\$ 3,033</u>	<u>30.3 %</u>	<u>\$ 489</u>	<u>16.1 %</u>

Gross profit as a percentage of revenue typically fluctuates with product and regional mix, selling prices, product costs and revenue levels. The 3.8% increase in gross profit as a percentage of revenue for the three months ended March 31, 2019, as compared to the three months ended March 31, 2018, reflects new customer growth and a favorable change in product mix with an increase in laser sales, which have a higher margin than our other product offerings, partially offset by a decrease in imaging sales, as laser sales typically have higher margins.

Operating Expenses: The following table summarizes our unaudited operating expenses for the for the three months ended March 31, 2019 and March 31, 2018, as well as the amount of change and percentage of change (dollars in thousands):

	Three Months Ended		Three Months Ended		Amount Change	Percent Change
	March 31, 2019		March 31, 2018			
Sales and marketing	\$ 3,879	38.7 %	\$ 3,891	38.8 %	\$ (12)	(0.3) %
General and administrative	2,393	23.9 %	3,037	30.3 %	(644)	(21.2) %
Engineering and development	1,424	14.2 %	1,289	12.9 %	135	10.5 %
Change in fair value of patent litigation settlement liability	190	1.9 %	—	— %	190	100.0 %
Total operating expenses	<u>\$ 7,886</u>	<u>78.7 %</u>	<u>\$ 8,217</u>	<u>82.0 %</u>	<u>\$ (331)</u>	<u>(4.0) %</u>

The quarter-over-quarter total operating expenses are explained in the following expense categories:

Sales and Marketing Expense. Sales and marketing expenses during the three months ended March 31, 2019 were consistent with the same period in 2018, primarily due to a decrease in payroll and consulting related expenses of \$0.3 million, offset by increases of \$0.1 million in media materials, advertising and printing expenses, \$0.1 million in stock-based compensation expense, and \$0.1 million in travel expenses. As we continue efforts to transform and drive to revenue growth, we expect sales and marketing expenses to decrease as a percentage of revenue.

General and Administrative Expense. General and administrative expenses during the three months ended March 31, 2019 decreased by \$0.6 million or 21.2% compared to the same period in 2018, primarily due to a decrease in patent and legal fees of \$0.4 million, \$0.2 million in provision for doubtful accounts, and \$0.1 million in payroll and consulting related expenses. We expect general and administrative expenses to decrease as a percentage of revenue through the remainder of 2019.

Engineering and Development Expense. Engineering and development expenses during the three months ended March 31, 2019 increased by \$0.1 million or 10.5% compared to the same period in 2018, primarily due to a \$0.2 million increase in payroll and consulting-related expenses partially offset by decreases in operating expenses of approximately \$0.1 million. We expect engineering and development expenses to decrease as a percentage of revenue through the remainder of 2019.

Change in fair value of patent litigation settlement liability. We recognized a \$0.2 million loss on patent litigation settlement with CAO Group, Inc., as described in Part I, Item I, Note 11 above, due to the change in fair value of the restricted stock which is pending issuance. We expect the restricted stock to be issued during the second quarter of 2019; however, until the shares are issued we may be required to adjust the contingent liability to match the fluctuation in our share price.

Gain (Loss) on Foreign Currency Transactions. We realized a \$43,000 loss on foreign currency transactions during the three months ended March 31, 2019 compared to a \$0.2 million gain on foreign currency transactions during the three months ended March 31, 2018, primarily due to exchange rate fluctuations between the U.S. dollar and Euro, as well as other foreign currencies.

Interest Expense, Net. Interest expense during the three months ended March 31, 2019 increased by \$0.5 million primarily due to the interest and amortization of debt issuance costs relating to the SWK Loan we entered into in the fourth quarter of 2018. We expect interest expense to fluctuate depending on the movement in LIBOR through the remainder of 2019.

Income Tax Provision. We use a discrete year-to-date method in calculating quarterly provision for income taxes. Our provision for income taxes was \$15,000 for the three months ended March 31, 2019 as compared to a provision of \$32,000 for the same period in the prior year. For additional information regarding income taxes, see Part I, Item I, Note 14 – Income Taxes.

Net Loss. Our net loss totaled approximately \$49 million for the three months ended March 31, 2019 compared to a net loss of \$5.0 million for the three months ended March 31, 2018.

Liquidity and Capital Resources

At March 31, 2019, we had approximately \$3.3 million in cash, cash equivalents and restricted cash. Management defines cash and cash equivalents as highly liquid deposits with original maturities of 90 days or less when purchased. The decrease in our cash, cash equivalents and restricted cash of \$5.1 million at March 31, 2019 as compared to December 31, 2018, was primarily due to net cash used in operating activities of \$5.1 million. The \$5.1 million of net cash used in operating activities was primarily driven by our net loss of \$4.9 million for the three months ended March 31, 2019.

The following table summarizes our change in cash, cash equivalents and restricted cash (in thousands):

	Three Months Ended	
	March 31,	
	2019	2018
Net cash flows used in operating activities	\$ (5,034)	\$ (4,762)
Net cash flows used in investing activities	(8)	(102)
Net cash flows (used in) provided by financing activities	3	1,624
Effect of exchange rate changes	(49)	74
Net change in cash, cash equivalents and restricted cash	<u>\$ (5,088)</u>	<u>\$ (3,166)</u>

Operating Activities

Net cash used in operating activities consists of our net loss, adjusted for our non-cash charges, plus or minus working capital changes. Cash used in operating activities for the three months ended March 31, 2019 totaled \$5.0 million and was primarily comprised of our net loss of \$4.9 million, partially offset by non-cash adjustments for depreciation and amortization expenses of \$0.3 million and stock-based compensation expenses of \$0.8 million. The \$1.4 million net decrease in our operating assets and liabilities was primarily due to a decrease in accounts payable and accrued liabilities of \$1.5 million related to the timing of our payments and \$0.5 million paid as part of the patent litigation settlement with CAO Group, Inc. and an increase in accounts receivable of \$0.7 million, partially offset by a decrease in inventory of \$0.2 million and prepaid expenses and other current assets of \$0.5 million.

Investing Activities

Cash used in investing activities for the three months ended March 31, 2019 were minimal. We expect cash flows from investing activities to remain consistent through the remainder of 2019.

Financing Activities

Net cash provided by financing activities for the three months ended March 31, 2019 decreased by approximately \$1.6 million primarily due to the rights offering activities that occurred during the three months ended March 31, 2018.

Effect of Exchange Rate

The effect of exchange rate on cash for the three months ended March 31, 2019 was \$49,000 and primarily due to fluctuations between the U.S. Dollar and the Euro.

Future Liquidity Needs

As of March 31, 2019, we had working capital of approximately \$13.7 million. Our principal sources of liquidity as of March 31, 2019 consisted of approximately \$3.3 million in cash, cash equivalents and restricted cash and \$11.7 million of net accounts receivable.

On November 9, 2018, BIOLASE entered into a five-year secured Credit Agreement (the “Credit Agreement”) with SWK, pursuant to which BIOLASE has borrowed \$12.5 million (the “SWK Loan”). \$0.9 million of the proceeds from the SWK Loan have been used to pay off all amounts owed to Western Alliance Bank under the Business Financing Agreement (as amended on October 26, 2018), and we plan to use the remaining proceeds to provide additional working capital to fund its growth initiatives, such as broadening its customer base and increasing the utilization of its products to drive recurring higher margin consumables revenue.

As of March 31, 2019, we were not in compliance with certain covenants in the Credit Agreement. In May 2019, SWK granted the Company a waiver of such covenants. On May 7, 2019, we entered into an amendment to the Credit Agreement with SWK to increase our total commitment in the SWK Loan from \$12.5 million to \$15.0 million and to revise certain of the financial covenants to (a) adjust minimum revenue and EBITDA levels, (b) to require us to have a shelf registration statement declared effective by the SEC before September 30, 2019, with a proposed maximum aggregate offering price of at least \$10.0 million, if we do not reach set minimum revenue levels for the three-month period ended June 30, 2019, and (c) require us to maintain minimum liquidity of \$1.5 million at all times and if aggregate minimum revenue and EBITDA levels are not achieved by September 30, 2019, the minimum liquidity requirement will be increased to \$3.0 million, until we have obtained additional equity or debt funding of no less than \$5.0 million.

In connection with the amendment, we will pay to SWK loan origination and other fees of approximately \$0.2 million payable in cash and approximately \$0.3 million warrants to purchase shares of BIOLASE common stock. We will also pay an additional finder’s fee to DPG, as defined and described in Note 9 to the unaudited consolidated financial statements of approximately \$0.1 million in cash and \$0.1 million in warrants to purchase shares of BIOLASE common stock.

In order for us to continue operations beyond the next 12 months and be able to discharge our liabilities and commitments in the normal course of business, we must increase sales of our products directly to end-users and through distributors, establish profitable operations through the combination of increased sales and decreased expenses, generate cash from operations or obtain additional funds when needed. We intend to improve our financial condition and ultimately improve our financial results by increasing revenues through expansion of our product offerings, continuing to expand and develop our field sales force and distribution relationships both domestically and internationally, forming strategic arrangements within the dental and medical industries, educating dental and medical patients as to the benefits of our advanced medical technologies, and reducing expenses. Additional capital requirements may depend on many factors, including, among other things, continued losses, the rate at which our business grows, demands for working capital, manufacturing capacity, and any acquisitions that we may pursue. From time to time, we could be required, or may otherwise attempt, to raise capital, through either equity or debt offerings, or enter into another line of credit facility. We may not be able to successfully consummate any equity or debt financings or enter into any other line of credit facility in the future or that the required capital would be available on acceptable terms, if at all, or that any such financing activity would not be dilutive to our stockholders.

Recent Accounting Pronouncements

For a description of recently issued and adopted accounting pronouncements, including the respective dates of adoption and expected effects on our results of operations and financial condition, please refer to Part I, Item 1, Note 2 – Summary of Significant Accounting Policies, which is incorporated herein by this reference.

Additional Information

BIOLASE®, ZipTip®, ezlase®, eztips®, ComfortPulse®, Waterlase®, Waterlase Dentistry®, Waterlase Express®, iLase®, iPlus®, Epic®, Epic Pro®, WCLI®, World Clinical Laser Institute®, Waterlase MD®, Waterlase Dentistry®, and EZLase® are registered trademarks of BIOLASE, and Pedolase™ is a trademark of BIOLASE. All other product and company names are registered trademarks or trademarks of their respective owners.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

None.

ITEM 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, as of the end of the period covered by this report (the "Evaluation Date"). Based on this evaluation, our principal executive officer and principal financial officer concluded as of the Evaluation Date that our disclosure controls and procedures were effective such that the information relating to the Company, including our consolidated subsidiaries, required to be disclosed in our SEC reports (i) is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and (ii) is accumulated and communicated to the Company's management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of any changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that occurred during our most recently completed fiscal quarter. Based on that evaluation, our principal executive officer and principal financial officer concluded that there has not been any change in our internal control over financial reporting during the quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

The disclosure contained in Part I, Item 1, Note 11 – Commitments and Contingencies is hereby incorporated herein by reference.

ITEM 1A. RISK FACTORS

There have been no material changes to the risk factors as disclosed in Part I, Item 1A "Risk Factors" in the 2018 Form 10-K.

ITEM 5. OTHER INFORMATION

The information below is reported in lieu of information that would be reported under Items 1.01 and 2.03 under Form 8-K.

Credit Agreement

On May 7, 2019 BIOLASE entered into an amendment to the Credit Agreement (the "First Amendment") with SWK to increase the total commitment in the SWK Loan from \$12.5 million to \$15.0 million and to revise the financial covenants to (a) adjust minimum revenue and EBITDA levels, (b) require the Company to have a shelf registration statement declared effective by the SEC before September 30, 2019, with a proposed maximum aggregate offering price of at least \$10.0 million if the Company does not achieve set minimum revenue levels for the three-month period ended June 30, 2019, and (c) require minimum liquidity of \$1.5 million at all times and if aggregate minimum revenue and EBITDA levels are not achieved by September 30, 2019, the minimum liquidity requirement will be increased to \$3.0 million, until the Company has obtained additional equity or debt funding of no less than \$5.0 million.

The additional commitment will bear the same interest rate of LIBOR plus 10% and hold the same maturity date of November 9, 2023 as the original Credit Agreement. In connection with the First Amendment, BIOLASE paid to SWK an origination fee in the amount of \$187,500 on May 7, 2019.

Warrant

On May 7, 2019, in connection with the First Amendment, BIOLASE issued to SWK or its assignees (collectively with SWK, the “Holder”) warrants (the “Additional SWK Warrants”) to purchase up to 115,175 shares of BIOLASE common stock. The exercise price of the SWK Warrants is \$2.17 per share, which was the average closing price of BIOLASE common stock for the ten trading days immediately preceding May 7, 2019. The Additional SWK Warrants are immediately exercisable, expire on May 7, 2027 and contain a “cashless exercise feature.” Subject to certain limitations, the Holder has certain piggyback registration rights with respect to the shares that are issued upon exercise of the SWK Warrants.

The description of the First Amendment and the Additional SWK Warrants set forth above are qualified in their entirety by reference to the First Amendment to Credit Agreement and Warrant to Purchase Stock filed as Exhibit 10.8 and Exhibit 4.7, respectively, to this Quarterly Report on Form 10-Q, which exhibits are hereby incorporated herein by reference.

Exhibit	Description	Filed Herewith	Incorporated by Reference			
			Form	Period Ending/Date of Report	Exhibit	Filing Date
3.1.1	Restated Certificate of Incorporation, including, (i) Certificate of Designations, Preferences and Rights of 6% Redeemable Cumulative Convertible Preferred Stock of the Registrant; (ii) Certificate of Designations, Preferences and Rights of Series A 6% Redeemable Cumulative Convertible Preferred Stock of the Registrant; (iii) Certificate of Correction Filed to Correct a Certain Error in the Certificate of Designation of the Registrant; and (iv) Certificate of Designations of Series B Junior Participating Cumulative Preferred Stock of the Registrant.		S-1, Amendment No. 1	12/23/2005	3.1	12/23/2005
3.1.2	Amendment to Restated Certificate of Incorporation		8-K	05/10/2012	3.1	05/16/2012
3.1.3	Second Amendment to Restated Certificate of Incorporation		8-A/A	11/04/2014	3.1.3	11/04/2014
3.1.4	Third Amendment to Restated Certificate of Incorporation		S-3	07/21/2017	3.4	07/21/2017
3.1.5	Fourth Amendment to Restated Certificate of Incorporation		8-K	05/10/2018	3.1	05/11/2018
3.1.6	Certificate of Elimination of Series B Junior Participating Cumulative Preferred Stock		8-K	11/10/2015	3.1	11/12/2015
3.1.7	Certificate of Designations, Preferences and Rights of Series C Participating Convertible Preferred Stock of the Registrant		8-K	08/08/2016	3.1	08/08/2016
3.1.8	Certificate of Elimination of Series C Participating Convertible Preferred Stock of the Registrant		8-K	04/18/2017	3.1	04/20/2017
3.1.9	Certificate of Designations, Preferences and Rights of Series D Participating Convertible Preferred Stock of the Registrant		8-K	04/18/2017	3.2	04/20/2017
3.2	Seventh Amended and Restated Bylaws of the Registrant, adopted on October 8, 2018		8-K	10/08/2018	3.1	10/09/2018
4.1	Form of Warrant Issued on November 7, 2014		8-K	11/03/2014	99.1	11/07/2014

Exhibit	Description	Filed Herewith	Incorporated by Reference			
			Form	Period Ending/Date of Report	Exhibit	Filing Date
4.2	Form of Warrant issued on August 8, 2016		8-K	08/01/2016	99.1	08/02/2016
4.3	Form of Warrant issued April 18, 2017		DEF14A		D	05/19/2017
4.4	Warrant to Purchase Stock issued on March 6, 2018 to Western Alliance Bank		10-K	12/31/2017	4.4	03/14/2018
4.5	Warrant to Purchase Stock issued on September 27, 2018 to Western Alliance Bank		10-Q	09/30/2018	4.1	11/14/2018
4.6	Warrant to Purchase Stock issued on September 27, 2018 to SWK Funding, LLC		10-Q	09/30/2019	4.2	11/14/2018
4.7	Warrant to Purchase Stock issued on May 7, 2019 to SWK Funding, LLC	X				
10.7	Confidential Settlement Agreement, dated January 25, 2019, by and between the Registrant and CAO, Group, Inc.		10-K	12/31/2018	10.28	03/08/19
10.8	First Amendment to Credit Agreement, dated as of May 7, 2019, by and between the Registrant and SWK Funding LLC	X				
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14 and Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended	X				
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14 and Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended	X				
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	**				
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	**				

Exhibit	Description	Filed Herewith	Incorporated by Reference			
			Form	Period Ending/Date of Report	Exhibit	Filing Date
101	The following unaudited financial information from the Company's Quarterly Report on Form 10-Q, for the period ended March 31, 2019, formatted in XBRL (Extensible Business Reporting Language): (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Operations and Comprehensive Loss, (iii) Consolidated Statements of Cash Flows, (iv) Notes to Consolidated Financial Statements	X				

* Compensatory contract or arrangement.

** Furnished herewith.

SIGNATURES

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

BIOLASE, INC.
(Registrant)

May 10, 2019
Date

By: /s/ TODD A. NORBE
Todd A. Norbe
President and Chief Executive Officer
(Principal Executive Officer)

May 10, 2019
Date

By: /s/ JOHN R. BEAVER
John R. Beaver
Executive Vice President and Chief Financial Officer
(Principal Financial Officer and
Principal Accounting Officer)

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”), OR THE SECURITIES OR BLUE SKY LAWS OF ANY STATE AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAW OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER OF THESE SECURITIES (SUBJECT TO THE PROVISIONS OF ARTICLE 5 BELOW), SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION IS EXEMPT FROM REGISTRATION.

WARRANT TO PURCHASE STOCK

Issuer:	BIOLASE, Inc., a Delaware corporation (the “ <u>Company</u> ”)
Warrant No.:	SWK-2
Number of Shares:	115,175 (as may be adjusted pursuant to <u>Article 2</u>)
Warrant Price:	\$2.17
Issue Date:	May 7, 2019
Expiration Date:	May 7, 2027

THIS WARRANT CERTIFIES THAT, for good and valuable consideration, SWK Funding LLC, a Delaware limited liability company, or its assignees (“Holder”), is entitled to purchase the number of fully paid and non-assessable shares of the Company’s common stock, par value \$0.001 per share (“Common Stock”), set forth above (the “Shares”), at the Warrant Price per Share set forth above, as the same may be adjusted from time to time pursuant to Article 2 of this Warrant (the “Warrant Price”), subject to the provisions and upon the terms and conditions set forth in this Warrant.

ARTICLE 1.

EXERCISE.

1.1 Method of Exercise. This Warrant is exercisable, in whole or in part, at any time and from time to time on or before the Expiration Date set forth above. Holder may exercise this Warrant by delivering the original of this Warrant together with a duly executed Notice of Exercise in substantially the form attached as Appendix 1 to the Company in accordance with Section 5.7 (or such other office or agency of the Company as it may designate by notice in writing to the Holder in accordance with Section 5.7). Unless Holder is exercising the cashless exercise right set forth in Section 1.2, Holder shall also deliver to the Company a check, wire transfer (to an account designated by the Company), or other form of payment acceptable to the Company in an amount equal to the aggregate Warrant Price for the Shares being purchased.

1.2 Cashless Exercise. In lieu of exercising this Warrant as specified in Section 1.1, Holder may from time to time exercise this Warrant, in whole or in part, by means of a “cashless exercise” in which the Holder shall be entitled to receive a certificate for the number of Shares determined in accordance with the following equation:

$$X = \frac{(A - B) \times C}{A}$$

where

- X = the number of Shares purchasable upon a “cashless exercise” of the Warrant pursuant to the provisions of this Section 1.2;
- A = the Fair Market Value (defined below) per share of Common Stock on the date of the “cashless exercise”;
- B = the Warrant Price for one Share under this Warrant; and
- C = the number of Shares as to which this Warrant is being exercised pursuant to the provisions of this Article 1.

If the foregoing calculation results in a negative number or zero, then no Shares shall be issued upon a “cashless exercise” pursuant to this Section 1.2. If the Holder does not agree with the Fair Market Value per share ultimately determined pursuant to Section 1.3(b) or Section 1.3(c), the Holder may, in its sole discretion (i) rescind the “cashless exercise”, (ii) pay the aggregate Warrant Price in the form of, at the Holder’s option, (1) a check payable to the Company or (2) a wire transfer of funds to an account designated by the Company, or (iii) proceed with the “cashless exercise” at the Fair Market Value per Share so determined. In the event that, upon the Expiration Date or other termination of this Warrant, the Fair Market Value of one Share (or other security issuable upon the exercise hereof) as determined in accordance with Section 1.3 is greater than the Warrant Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to this Section 1.2 as to all Shares (or such other securities) for which it shall not previously have been exercised, and the Company shall promptly deliver a certificate representing the Shares (or such other securities) issued upon such exercise to Holder.

1.3 Fair Market Value. For purposes of this Warrant, the “Fair Market Value” of a Share as of a particular date (the “Determination Date”) shall mean:

(a) If the Common Stock is then publicly listed or quoted on one or more securities exchanges, inter-dealer quotation systems or over-the-counter markets, the fair market value of a Share shall be the closing price per share of Common Stock reported on the principal such exchange, system or market for the business day immediately before Holder delivers this Warrant together with its Notice of Exercise to the Company.

(b) If the Determination Date is the date of a liquidation, dissolution or winding up, or any event deemed to be a liquidation, dissolution or winding up pursuant to the Company’s charter, then the fair market value of a Share shall be equal to all amounts to be payable per share to holders of the Common Stock pursuant to the charter in the event of such liquidation, dissolution or winding up, assuming for the purposes of this clause (b) that all of the shares of Common Stock then issuable upon exercise of all in-the-money options and warrants are outstanding at the Determination Date.

(c) If the Common Stock is not then publicly listed or quoted on one or more securities exchanges, inter-dealer quotation systems or over-the-counter markets, then the Board of Directors of the Company (the "Board") shall determine the fair market value of a Share in its reasonable good faith judgment; provided, however, if Holder advises the Board in writing that Holder disagrees with such determination, then the Company and Holder shall promptly agree upon a reputable investment banking firm to undertake such valuation. If the valuation of such investment banking firm results in a fair market value per Share that is more than 15% greater than that determined by the Board, then all fees and expenses of such investment banking firm shall be paid by the Company. In all other circumstances, such fees and expenses of such investment banking firm shall be paid by Holder.

1.4 Delivery of Certificate and New Warrant. Promptly after Holder exercises this Warrant and, if applicable, the Company receives payment of the aggregate Warrant Price, the Company shall deliver to Holder certificates for the Shares acquired and, if this Warrant has not been fully exercised and has not expired, a new warrant of like tenor representing a warrant to purchase the Shares not yet acquired.

1.5 Replacement of Warrants. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company or, in the case of mutilation, on surrender and cancellation of this Warrant, the Company shall execute and deliver a replacement Warrant.

1.6 Sale, Merger, or Consolidation of the Company. For the purpose of this Warrant, "Acquisition" means any sale or other disposition of all or substantially all of the assets of the Company, or any reorganization, consolidation, or merger of the Company where the holders of the Company's securities before the transaction beneficially own less than 50% of the outstanding voting securities of the surviving entity after the transaction. Upon the closing of any Acquisition, the successor entity shall assume the obligations of this Warrant, and this Warrant shall be exercisable for the same securities, cash, and property as would be payable for the Shares issuable upon exercise of the unexercised portion of this Warrant as if such Shares were outstanding on the record date for the Acquisition and subsequent closing, and the Warrant Price shall be adjusted accordingly; provided, however, that if pursuant to such Acquisition the entire outstanding Shares issuable upon exercise of the unexercised portion of this Warrant are cancelled and the total consideration payable to the holders of such Shares consists entirely of cash, then, upon payment to the holder of this Warrant of an amount equal to the amount Holder would have received if Holder held Shares issuable upon exercise of the unexercised portion of this Warrant and such Shares were outstanding on the record date for the Acquisition less the aggregate Warrant Price of such Shares, this Warrant shall be cancelled.

ARTICLE 2.

ADJUSTMENTS TO THE SHARES.

2.1 Stock Dividends, Splits, Etc. If the Company, at any time while this Warrant is outstanding: (a) pays a dividend on the Shares payable in Common Stock, (b) subdivides the outstanding Shares into a greater number of Shares, (c) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares or (d) issues by reclassification of shares of Common Stock any shares of capital stock of the Company, then in each such case (i) the Warrant Price will be adjusted by multiplying the Warrant Price then in effect by a fraction, the numerator of which equals the number of shares of Common Stock outstanding immediately prior to such event (excluding treasury shares, if any), and the denominator of which equals the number of shares of Common Stock outstanding immediately after such event (excluding treasury shares, if any), and (ii) the number of Shares issuable hereunder shall be concurrently adjusted by multiplying such number by the reciprocal of such fraction. Such adjustments will take effect on the effective date of such dividend, subdivision, combination or issuance by reclassification, as the case may be. The provisions of this Section 2.1 shall similarly apply to successive reclassifications, exchanges, combinations, substitutions, recapitalizations and reorganizations.

2.2 Reserved.

2.3 Adjustments for Diluting Issuances. In the event that the Company issues (a “Diluting Issuance”) any Additional Shares of Common Stock (as defined in the Company’s Certificate of Designations, Preferences and Rights of Series C Participating Convertible Preferred Stock (the “Certificate of Designations”), except that Sections 6(c)(ii)(C)(1) and 6(c)(ii)(C)(2) in such definition shall be deleted in their entirety) after the Issue Date set forth above, at a price per Share less than the then Exercise Price, then the Exercise Price shall be adjusted in accordance with the provisions set forth in Section 6(c) of the Certificate of Designations (the “Provisions”). For purposes of clarity, all references in such Section 6(c) to the “Initial Issue Date” shall mean the Issue Date, and to the “Conversion Price” shall mean the Exercise Price. The Company agrees that the Provisions, as in effect on the Issue Date, shall be deemed to remain in full force and effect during the term of the Warrant notwithstanding any subsequent amendment, waiver or termination thereof by the Company’s shareholders. Under no circumstances shall the aggregate Exercise Price payable by Holder upon exercise of the Warrant increase as a result of any adjustment arising from a Diluting Issuance.

2.4 No Impairment. The Company shall not, by amendment of its Certificate of Incorporation or through a reorganization, transfer of assets, consolidation, merger, dissolution, issue, or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed under this Warrant by the Company, but shall at all times in good faith assist in carrying out of all the provisions of this Article 2 and in taking all such action as may be necessary or appropriate to protect Holder’s rights under this Article 2 against impairment. If the Company takes any action, a purpose of which is to avoid the observance or performance of any of the terms to be observed or performed under this Warrant by the Company, the Warrant Price shall be adjusted downward and the number of Shares issuable upon the exercise of this Warrant shall be adjusted upward in such a manner that such action is offset and the aggregate Warrant Price of this Warrant is unchanged.

2.5 Fractional Shares. No fractional Shares shall be issuable upon exercise of the Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional share interest arises upon any exercise of the Warrant, the Company shall eliminate such fractional share interest by paying Holder the amount computed by multiplying the fractional interest by the Fair Market Value of a full Share.

2.6 Certificate as to Adjustments. Upon any adjustment pursuant to this Article 2, including any adjustments to the Warrant Price or number of Shares that are exercisable under this Warrant, the Company shall promptly notify Holder in writing, and, at the Company's expense, promptly compute such adjustment, and furnish Holder with a certificate of its officer setting forth such adjustment and the facts upon which such adjustment is based.

ARTICLE 3.

REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COMPANY.

3.1 Representations and Warranties. The Company represents and warrants to the Holder as follows:

(a) The Company is a corporation validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as now conducted.

(b) This Warrant constitutes the Company's valid and legally binding obligation, enforceable in accordance with its terms, except as may be limited by (i) applicable bankruptcy, insolvency, reorganization, or similar laws relating to or affecting the enforcement of creditors' rights and (ii) laws relating to the availability of specific performance, injunctive relief or other equitable remedies. All corporate action has been taken on the part of the Company, its officers, directors, and stockholders necessary for the authorization, execution and delivery of this Warrant and the issuance of the Shares upon exercise of this Warrant.

(d) All Shares which may be issued upon the exercise of this Warrant shall at all times during the term hereof and prior to exercise in full hereof be duly reserved out of the Company's authorized and unissued capital stock for issuance upon exercise hereof and shall, upon issuance, be duly and validly issued, fully paid and non-assessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws.

3.2 No Shareholder Rights; Preemptive Rights. Except as provided in this Warrant, Holder will not have any rights as a shareholder of the Company until the exercise of this Warrant. The Shares for which this Warrant is exercisable shall at all times be free from preemptive rights and any other rights (or the Company shall have received a valid waiver from all such holders of any such rights) that would prevent the exercise of this Warrant in full by the Holder.

3.3 Valid Issuance. The Company shall take all steps necessary to ensure that all Shares which may be issued upon the exercise of this Warrant shall, upon issuance, be duly authorized, validly issued, fully paid and nonassessable, free of any liens and encumbrances, and issued to the Holder without violation of any applicable law or governmental regulation or any requirements of any domestic securities exchange or similar quotation system upon which the Shares may be listed, except for restrictions on transfer provided for herein or under applicable federal and state securities laws.

3.4 Notice of Certain Events. If Company proposes at any time (a) to declare any dividend or distribution upon its capital stock, whether in cash, property, stock, or other securities and whether or not a regular cash dividend; (b) to offer for subscription pro rata to the holders of any class or series of its stock any additional shares of stock of any class or series or other rights; (c) to effect any reclassification or recapitalization of Common Stock; (d) to consummate any Acquisition, or to liquidate, dissolve or wind up the Company; or (e) offer holders of registration rights the opportunity to participate in an underwritten public offering of the company's securities for cash, then, in connection with each such event, the Company shall give Holder (1) in the case of the matters referred to in clauses (a) and (b) above at least 20 days prior written notice of the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of Common Stock will be entitled thereto) or for determining rights to vote, if any, in respect of the matters referred to in clauses (c) and (d) above; (2) in the case of the matters referred to in (c) and (d) above at least 20 days prior written notice of the date when the same will take place (and specifying the date on which the holders of Common Stock will be entitled to exchange their Common Stock for securities or other property deliverable upon the occurrence of such event); and (3) in the case of the matter referred to in (e) above, the same notice as is given to the holders of such registration rights.

3.5 Information Rights. So long as Holder holds this Warrant and/or any of the Shares, the Company shall deliver to Holder (i) promptly, copies of all notices or other written communications to which Holder would be entitled if it held Shares as to which this Warrant was then exercisable, and (ii) within 45 days after the end of each of the first three quarters of each fiscal year, the Company's quarterly, unaudited financial statements and within 90 days after the end of each fiscal year, the Company's annual, audited financial statements; provided, however, that with regard to annual meeting proxy statements and clause (ii) of this Section 3.5, it is understood and agreed that there shall be no such delivery requirement with respect to any such proxy statements or financial statements if such documents are available on EDGAR.

ARTICLE 4.

REPRESENTATIONS AND WARRANTIES OF THE HOLDER.

The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant and the Shares to be acquired upon exercise of this Warrant by Holder are being acquired for investment for Holder's account, not as a nominee or agent, and not with a view to the public resale or distribution in violation of applicable securities laws. Holder also represents that it has not been formed for the specific purpose of acquiring this Warrant or the Shares.

4.2 Disclosure of Information. Holder has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to this Warrant and its underlying securities. Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Holder or to which Holder has access.

4.3 Investment Experience. Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. Holder has experience as an investor in securities of companies in the development stage and acknowledges that Holder can bear the economic risk of such Holder's investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. Holder understands that this Warrant and the Shares issuable upon exercise hereof have not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. Holder understands that this Warrant and the Shares issued upon any exercise hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available.

ARTICLE 5.

MISCELLANEOUS.

5.1 Term. This Warrant is exercisable in whole or in part at any time and from time to time on or before the Expiration Date.

5.2 Legends. This Warrant and the Shares shall be imprinted with a legend in substantially the following form:

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND APPLICABLE STATE SECURITIES LAW OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER OF THESE SECURITIES, SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION IS EXEMPT FROM REGISTRATION.

5.3 Cash Dividends and Cash Distributions. Subject to the other provisions of this Section 5.3, this Warrant shall at all times represent the Holder's right to receive the same percentage of any cash dividends or cash distributions made by the Company that would have been received by the Holder if Holder had fully exercised this Warrant for the full amount of the unexercised Shares immediately prior to the close of business on the day immediately preceding the record date for such dividend. To that end, if the Company at any time or from time to time after the date hereof declares, orders, pays or makes a cash dividend or other cash distribution on or with respect to its shares of Common Stock, then, and in each such case, the Company shall reserve for, and hold for the benefit of, the Holder, a dollar amount equal to the amount (without interest) that the Holder would have received if it had fully exercised this Warrant for the full amount of the unexercised Shares immediately prior to the close of business on the day immediately preceding the record date for such dividend or other cash distribution, and the Holder shall be entitled to receive such amount in full upon the exercise of this Warrant. In lieu of receiving such cash payment, at its sole discretion, the Holder may choose to have the Warrant Price reduced by the amount of the cash, or value of the other securities or other property payable per share.

5.4 Compliance with Securities Laws on Transfer. This Warrant and/or the Shares issuable upon exercise of this Warrant may not be transferred or assigned in whole or in part without compliance with applicable federal and state securities laws by the transferor and the transferee, and in connection with any proposed transfer of this Warrant or the Shares to any Person other than an Affiliate of the Holder, the transferor shall, if reasonably requested by the Company, deliver a legal opinion of counsel to the transferor (at the transferor's expense).

5.5 Registration Rights. In the event that the Company, at any time prior to the Expiration Date, proposes to file on behalf of any stockholder or warrant holder a registration statement under the Act on any form (other than a registration statement on Form S-4 or Form S-8) for shares or warrant shares held by any stockholder or warrant holder, the Company shall provide written notice to the Holder as soon as practicable of such proposed filing, but in no event shall such written notice be given to the Holder later than ten (10) days prior to the date that the Company intends to file such registration statement, and, subject to the receipt by the Company of any information of the Holder reasonably required to be included in the registration statement, the Holder shall have the right, in its discretion, to include the Shares of the Holder in such registration statement at the Company's expense; provided, however, that the Holder shall have no such right with respect to any Shares that cannot be registered on such registration statement, as a result of the rules and regulations of the Securities and Exchange Commission. All legal and other fees and expenses incurred by the Holder in connection with such registration shall be borne by the Holder. The Holder shall not, in connection with any such registration, provide any information to the Company that contains any untrue statement of a material fact or fail to state a material fact required to be stated or necessary to make the statements provided to the Company not misleading, in light of the circumstances in which they were made.

5.6 Transfer Procedure. Subject to the provisions of Section 5.4 and upon providing the Company with written notice, Holder may transfer all or part of this Warrant or the Shares issuable upon exercise of this Warrant to any transferee, provided, however, in connection with any such transfer, Holder will give the Company notice of the portion of the Warrant being transferred with the name, address and taxpayer identification number of the transferee and Holder will surrender this Warrant to the Company for reissuance to the transferee(s) (and Holder if applicable).

5.7 Notices. All notices and other communications from the Company to the Holder, or vice versa, shall be in writing and shall be deemed delivered and effective when given personally or mailed by first-class registered or certified mail or by overnight courier, postage prepaid (or on the first business day after transmission by facsimile), at such address as may have been furnished to the Company or Holder, as the case may be, in writing by the Company or such holder from time to time.

All notices to Holder shall be addressed as follows until the Company receives notice of a change in address in accordance with thisSection 5.7:

SWK Funding LLC
Attn: Chief Executive Officer
14755 Preston Road, Suite 105
Dallas, TX 75254
Telephone: 972-687-7250
Facsimile: 972- 687-7255

With a copy (which shall not constitute notice) to:

Holland & Knight LLP
200 Crescent Ct., Suite 1600
Dallas, TX 75201
Telephone: 214-964-9500
Facsimile: 214-964-9501
Attention: Ryan Magee

Notice to the Company shall be addressed as follows until Holder receives notice of a change in address in accordance with thisSection 5.7:

BIOLASE, Inc.
Attn: Chief Executive Officer
4 Cromwell
Irvine, CA 92618
Telephone: 949-361-1200
Facsimile: 949-365-4913

With a copy (which shall not constitute notice) to:

Sidley Austin LLP
1 South Dearborn Street
Chicago, IL 60603
Telephone: 312-853-2217; 312-853-7443
Facsimile: 312-853-7036
Attention: Michael A. Gordon
Beth E. Peev

5.8 Waiver. This Warrant and any term hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.9 Attorney's Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

5.10 Counterparts. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement.

5.11 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to its principles regarding conflicts of law.

5.12 Provisions for the Benefit of the Lenders. Notwithstanding anything herein to the contrary, nothing contained in this Warrant shall affect, limit or impair the rights and remedies of SWK in its capacity as a lender to the Company or any of the Company's subsidiaries pursuant to the Credit Agreement among the Company, SWK, as Agent, Sole Lead Arranger and Sole Bookrunner, and the financial parties thereto from to time as lenders, dated as of the date hereof, or any other agreements or instruments entered into in connection therewith. Without limiting the generality of the foregoing, SWK in exercising its rights as a lender will not have any duty to consider (a) its status as a direct or indirect stockholder of the Company and the Company's subsidiaries, (b) the direct or indirect ownership of the Shares, or (c) any duty it may have to any other direct or indirect stockholder of the Company and the Company's subsidiaries, except as may be required under the applicable loan documents.

[SIGNATURES APPEAR ON NEXT PAGE]

SWK FUNDING LLC

By: SWK Holdings Corporation,
its sole Manager

By: /s/ Winston Black
Name: Winston Black
Title: Chief Executive Officer

APPENDIX 1

NOTICE OF EXERCISE

The undersigned, pursuant to the provisions set forth in the attached Warrant (No. _____), hereby irrevocably elects to purchase (check applicable box):

_____ Shares covered by such Warrant.

_____ The undersigned herewith makes payment of the full purchase price for such Shares at the price per share provided for in such Warrant, which is \$ _____. Such payment takes the form of (check applicable box or boxes):

_____ \$_____ in lawful money of the United States; and/or

_____ the cancellation of such number of Shares as is necessary, in accordance with the formula set forth in Section 1.2, to exercise this Warrant with respect to _____ Shares (using a Fair Market Value of \$_____ per Share for purposes of this calculation) purchasable pursuant to the cashless exercise procedure set forth in Section 1.2.

The undersigned requests that the certificates for such Shares be issued in the name of, and delivered to _____ whose address is _____.

By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Article 4 of the Warrant as of the date hereof.

HOLDER:

By: _____

Name: _____

Title: _____

(Date): _____

**FIRST AMENDMENT TO
CREDIT AGREEMENT**

THIS FIRST AMENDMENT TO CREDIT AGREEMENT (this “**Amendment**”), dated as of May 7, 2019, is entered into by and among **BIOLASE, INC.**, a Delaware corporation (“**Borrower**”), each of the undersigned financial institutions (individually each a “**Lender**” and collectively “**Lenders**”) and **SWK FUNDING LLC**, a Delaware limited liability company, in its capacity as administrative agent for the other Lenders (in such capacity, “**Agent**”).

RECITALS

WHEREAS, Borrower, Agent and Lenders entered into that certain Credit Agreement dated as of November 9, 2018 (as the same may be amended, modified or restated from time to time, being hereinafter referred to as the “**Credit Agreement**”); and

WHEREAS, Borrower, Agent and Lenders desire to amend the Credit Agreement as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the premises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

ARTICLE I

Definitions

1.1 Capitalized terms used in this Amendment are defined in the Credit Agreement, as amended hereby, unless otherwise stated.

ARTICLE II

Amendments to Credit Agreement

2.1 **Amendment to Section 1.1.** Effective as of the date hereof, the definition of “Term Loan Commitment” in Section 1.1 of the Credit Agreement is hereby amended and restated to read as follows:

“Term Loan Commitment means \$15,000,000.”

2.2 **Amendment to Section 2.1.** Effective as of the date hereof, Section 2.1 of the Credit Agreement is hereby amended and restated to read as follows:

“2.1 Term Loan Commitments.

The Commitments of Lenders to make any Term Loan shall terminate concurrently with the making the of such Term Loan. The Term Loan is not a revolving credit facility, and therefore any amount thereof that is repaid or prepaid by Borrower, in whole or in part, may not be re-borrowed.”

2.3 **Amendment to Section 2.2.** Effective as of the date hereof, Section 2.2 of the Credit Agreement is hereby amended and restated to read as follows:

“2.2 Loan Procedure.

(a) Borrower, Agent and Lenders hereby agree and acknowledge that, as of May 7, 2019, the outstanding principal balance of the Term Loan is \$12,500,000.

(b) On or about May 7, 2019, Lenders shall make an additional term loan in the original principal amount of \$2,500,000, resulting in an aggregate outstanding principal balance of the Term Loan of \$15,000,000. Upon the funding of such additional term loan amount under this Section 2.2.2, Borrower shall pay to Agent, for its own account, an origination fee in the amount of \$37,500, which origination fee shall be deemed fully earned and non-refundable as of the funding of such subsequent term loan. All such term loan advances described in this Section 2.2 shall be deemed a single term Loan (each such loan, individually and collectively, the “Term Loan”) which shall be in an aggregate principal amount equal to the Term Loan Commitment.”

2.4 **Amendment to Section 2.7.** Effective as of the date hereof, Section 2.7 of the Credit Agreement is hereby amended to add a new Section 2.7(c) thereto to read as follows:

“(c) First Amendment Fee. Upon the Termination Date, Borrower shall pay a deferred amendment fee in relation to that certain First Amendment to this Agreement (the “First Amendment Fee”) to Agent, for its own account, in an amount equal to \$150,000, which First Amendment Fee shall be deemed fully earned and non-refundable on May 7, 2019.”

2.5 **Amendment to Section 7.13.1.** Effective as of the date hereof, Section 7.13.1 of the Credit Agreement is hereby amended and restated to read as follows:

“7.13.1 Consolidated Unencumbered Liquid Assets.

(a) Not permit the Consolidated Unencumbered Liquid Assets as of any date of determination to be less than \$1,500,000.

(b) Not permit the Consolidated Unencumbered Liquid Assets as of the last day of any Fiscal Quarter to be less than the greater of (i) \$1,500,000, or (ii) Operating Burn for such Fiscal Quarter.

(c) Notwithstanding the foregoing, in the event that the Aggregate Revenue for the Fiscal Quarter ending September 30, 2019 is less than \$11,500,000 and the EBITDA of Borrower for such Fiscal Quarter is less than – (\$1,000,000), then Sections 7.13.1(a) and (b) above shall each automatically be amended, without the need for any further action by Agent or any Lender, to replace each reference to “\$1,500,000” with a reference to “\$3,000,000 until such time as Borrower shall have issued (i) additional Equity Interests and/or (ii) Subordinated Debt which in the aggregate results in gross cash proceeds to Borrower of not less than \$5,000,000, or any combination thereof, in each in form and substance reasonably acceptable to Agent.”

2.6 **Amendment to Section 7.13.3.** Effective as of the date hereof, Section 7.13.3 of the Credit Agreement is hereby amended and restated to read as follows:

“7.13.3 Minimum EBITDA.

Not permit the EBITDA of Borrower and its Subsidiaries for the consecutive month period ending on the last Business Day of any Fiscal Quarter set forth in the table below (designated by “Q” in the table below) to be less than the applicable amount set forth in the table below for such period.

Nine (9) month period ending Q2 2019	-\$8,300,000
Twelve (12) month period ending Q3 2019	-\$10,000,000
Twelve (12) month period ending Q4 2019	-\$7,500,000
Twelve (12) month period ending Q1 2020	-\$7,000,000
Twelve (12) month period ending Q2 2020	-\$6,000,000
Twelve (12) month period ending Q3 2020	-\$5,000,000
Twelve (12) month period ending Q4 2020	-\$3,000,000
Twelve (12) month period ending Q1 2021	-\$1,500,000
Twelve (12) month period ending Q2 2021	-\$500,000
Twelve (12) month period ending Q3 2021	\$0
Twelve (12) month period ending Q4 2021 and each Fiscal Quarter thereafter	\$1,000,000

2.7 **Amendment to Annex I.** Effective as of the date hereof, Annex I of the Credit Agreement is hereby amended and restated to read as follows:

ANNEX I

Commitments and Pro Rata Term Loan Shares

Lender	Commitment	Pro Rata Term Loan Share
SWK Funding LLC	\$15,000,000	100%

ARTICLE III

Conditions Precedent and Post-Closing Obligations

3.1 **Conditions Precedent.** The effectiveness of this Amendment is subject to the satisfaction of the following conditions precedent in a manner satisfactory to Agent, unless specifically waived in writing by Agent in its sole discretion:

- (A). Agent shall have received this Amendment duly executed by Borrower.
- (B). The representations and warranties contained herein and in the Credit Agreement and the other Loan Documents, as each is amended hereby, shall be true and correct as of the date hereof, as if made on the date hereof, except for such representations and warranties as are by their express terms limited to a specific date.
- (C). No Default or Event of Default under the Credit Agreement, as amended hereby, shall have occurred and be continuing, unless such Default or Event of Default has been otherwise specifically waived in writing by Agent.
- (D). All corporate proceedings taken in connection with the transactions contemplated by this Amendment and all documents, instruments and other legal matters incident thereto shall be satisfactory to Agent; and Borrower shall provide to Agent a Manager's certificate with resolutions in form and substance acceptable to Agent.
- (E). Agent shall have received that certain Warrant to be issued on the date hereof by Borrower in form and substance acceptable to Agent.

3.2 **Post-Closing Obligation.** In the event that the Aggregate Revenue for the Fiscal Quarter ending June 30, 2019 is less than \$12,500,000, then Borrower shall have a shelf registration statement declared effective by the U.S. Securities and Exchange Commission on or before September 30, 2019, on Form S-3, if eligible, with a proposed maximum aggregate offering price of at least \$10,000,000 of equity or other subordinate capital.

ARTICLE IV

Limited Waiver, Ratifications, Representations and Warranties

4.1 Limited Waiver. Borrower was in non-compliance with the requirement of Section 7.13.1 of the Credit Agreement for the period ending March 31, 2019 and the requirement of Section 7.13.3 of the Credit Agreement for the period ending March 31, 2019, which failures constituted Events of Default under Section 8.1.4 of the Credit Agreement (the “**Specified Non-Compliance Items Items**”). Agent, on behalf of the Lenders, hereby waives the Specified Non-Compliance Items effective as of the date hereof. Except as specifically set forth above in relation to the Specified Non-Compliance Items, nothing contained in this Amendment or any other communication between Agent, any Lender, Borrower or any other Loan Party shall be a waiver of any past, present or future non-compliance, violation, Default or Event of Default of Borrower under the Credit Agreement or any Loan Document. Except as specifically set forth above in relation to the Specified Non-Compliance Items, Agent and each Lender hereby expressly reserves any rights, privileges and remedies under the Credit Agreement and each Loan Document that Lender may have with respect to any non-compliance, violation, Default or Event of Default, and any failure by Agent or any Lender to exercise any right, privilege or remedy as a result of the violations set forth above shall not directly or indirectly in any way whatsoever either (i) impair, prejudice or otherwise adversely affect the rights of Agent or any Lender, except as set forth herein, at any time to exercise any right, privilege or remedy in connection with the Credit Agreement or any Loan Document, (ii) amend or alter any provision of the Credit Agreement or any Loan Document or any other contract or instrument or (iii) constitute any course of dealing or other basis for altering any obligation of Borrower or any rights, privilege or remedy of Agent or any Lender under the Credit Agreement or any Loan Document or any other contract or instrument. Nothing in this Amendment shall be construed to be a consent by Agent or any Lender to any prior, existing or future violations of the Credit Agreement or any Loan Document.

4.2 Ratifications. The terms and provisions set forth in this Amendment shall modify and supersede all inconsistent terms and provisions set forth in the Credit Agreement and the other Loan Documents, and, except as expressly modified and superseded by this Amendment, the terms and provisions of the Credit Agreement and the other Loan Documents are ratified and confirmed and shall continue in full force and effect. Borrower, Lenders and Agent agree that the Credit Agreement and the other Loan Documents, as amended hereby, shall continue to be legal, valid, binding and enforceable in accordance with their respective terms. Borrower agrees that this Amendment is not intended to and shall not cause a novation with respect to any or all of the Obligations.

4.3 Representations and Warranties. Borrower hereby represents and warrants to Agent and Lenders that (a) the execution, delivery and performance of this Amendment, any and all other Loan Documents executed and/or delivered in connection herewith have been authorized by all requisite action (as applicable) on the part of Borrower and will not violate the organizational documents of Borrower; (b) Borrower’s directors and/or managers have authorized the execution, delivery and performance of this Amendment any and all other Loan Documents executed and/or delivered in connection herewith; (c) the representations and warranties contained in the Credit Agreement, as amended hereby, and any other Loan Document are true and correct on and as of the date hereof and on and as of the date of execution hereof as though made on and as of each

such date (except to the extent such representations and warranties expressly relate to an earlier date); (d) except as it relates to the Specified Non-Compliance Items, no Default or Event of Default under the Credit Agreement, as amended hereby, has occurred and is continuing; (e) Loan Parties are in full compliance in all material respects with all covenants and agreements contained in the Credit Agreement and the other Loan Documents, as amended hereby; and (f) except as disclosed to Agent, no Loan Party has amended its organizational documents since the date of the Credit Agreement.

ARTICLE V

Miscellaneous Provisions

5.1 Survival of Representations and Warranties. All representations and warranties made in the Credit Agreement or any other Loan Document, including, without limitation, any document furnished in connection with this Amendment, shall survive the execution and delivery of this Amendment and the other Loan Documents, and no investigation by Agent or any Lender or any closing shall affect the representations and warranties or the right of Agent and each Lender to rely upon them.

5.2 Reference to Credit Agreement. Each of the Credit Agreement and the other Loan Documents, and any and all other Loan Documents, documents or instruments now or hereafter executed and delivered pursuant to the terms hereof or pursuant to the terms of the Credit Agreement, as amended hereby, are hereby amended so that any reference in the Credit Agreement and such other Loan Documents to the Credit Agreement shall mean a reference to the Credit Agreement, as amended hereby.

5.3 Expenses of Agent. As provided in the Credit Agreement, Borrower agrees to pay on demand all costs and expenses incurred by Agent, or its Affiliates, in connection with the preparation, negotiation, and execution of this Amendment and the other Loan Documents executed pursuant hereto and any and all amendments, modifications, and supplements thereto, including, without limitation, the reasonable fees and costs of legal counsel, and all costs and expenses incurred by Agent and each Lender in connection with the enforcement or preservation of any rights under the Credit Agreement, as amended hereby, or any other Loan Documents, including, without, limitation, the reasonable fees and costs of legal counsel.

5.4 Severability. Any provision of this Amendment held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Amendment and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.

5.5 Successors and Assigns. This Amendment is binding upon and shall inure to the benefit of Agent and each Lender and Borrower and their respective successors and assigns, except that no Loan Party may assign or transfer any of its rights or obligations hereunder without the prior written consent of Agent.

5.6 Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument. This Amendment may be executed by facsimile or electronic (.pdf) transmission, which facsimile or electronic (.pdf) signatures shall be considered original executed counterparts for purposes of this Section 5.6, and each party to this Amendment agrees that it will be bound by its own facsimile or electronic (.pdf) signature and that it accepts the facsimile or electronic (.pdf) signature of each other party to this Amendment.

5.7 Effect of Waiver. No consent or waiver, express or implied, by Agent to or for any breach of or deviation from any covenant or condition by Borrower shall be deemed a consent to or waiver of any other breach of the same or any other covenant, condition or duty.

5.8 Headings. The headings, captions, and arrangements used in this Amendment are for convenience only and shall not affect the interpretation of this Amendment.

5.9 Applicable Law. THE TERMS AND PROVISIONS OF SECTIONS 10.17 (GOVERNING LAW) AND 10.18 (FORUM SELECTION; CONSENT TO JURISDICTION) OF THE CREDIT AGREEMENT ARE HEREBY INCORPORATED HEREIN BY REFERENCE, AND SHALL APPLY TO THIS AMENDMENT *MUTATIS MUTANDIS* AS IF FULLY SET FORTH HEREIN.

5.10 Final Agreement. THE CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS, EACH AS AMENDED HEREBY, REPRESENT THE ENTIRE EXPRESSION OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF ON THE DATE THIS AMENDMENT IS EXECUTED. THE CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS, AS AMENDED HEREBY, MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. NO MODIFICATION, RESCISSION, WAIVER, RELEASE OR AMENDMENT OF ANY PROVISION OF THIS AMENDMENT SHALL BE MADE, EXCEPT BY A WRITTEN AGREEMENT SIGNED BY BORROWER AND AGENT.

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CERTIFICATION

I, Todd A. Norbe, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the period ended March 31, 2019 of BIOLASE, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. I have disclosed, based on my most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2019

By: /s/ TODD A. NORBE
Todd A. Norbe
President and Chief Executive Officer
(Principal Executive Officer)

CERTIFICATION

I, John R. Beaver, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the period ended March 31, 2019 of BIOLASE, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. I have disclosed, based on my most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2019

By: /s/ JOHN R. BEAVER

John R. Beaver
Executive Vice President and Chief Financial Officer
(Principal Financial Officer and Principal Accounting Officer)

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

In connection with the Quarterly Report of BIOLASE, Inc. (the "Company") on Form 10-Q for the quarter ended March 31, 2019 (the "Report"), I, Todd A. Norbe, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

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

Date: May 10, 2019

By: /s/ TODD A. NORBE
Todd A. Norbe
President and Chief Executive Officer
(Principal Executive Officer)

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

In connection with the Quarterly Report of BIOLASE, Inc. (the "Company") on Form 10-Q for the quarter ended March 31, 2019 (the "Report"), I, John R. Beaver, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

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

Date: May 10, 2019

By: /s/ JOHN R. BEAVER
John R. Beaver
Executive Vice President and
Chief Financial Officer
(Principal Financial Officer and
Principal Accounting Officer)