

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 8-K

CURRENT REPORT PURSUANT
TO SECTION 13 OR 15(D) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event reported): **November 24, 2020**

BIONIK LABORATORIES CORP.

(Exact Name of Registrant as Specified in Its Charter)

Delaware

(State or Other Jurisdiction of
Incorporation or Organization)

000-54717

(Commission File Number)

27-1340346

(IRS Employer Identification No.)

**483 Bay Street, N105
Toronto, ON**

(Address of Principal Executive Offices)

M5G 2C9

(Zip Code)

Registrant's Telephone Number, Including Area Code: **(416) 640-7887**

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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.

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

| Title of each class | Trading Symbol | Name of each exchange on which registered |
|---------------------|----------------|---|
| Not applicable | Not applicable | Not applicable |

Item 1.01 Entry into a Material Definitive Agreement

The information set forth in Item 5.02 in this Form 8-K regarding the Employment Agreement and the Letter Agreement (each as defined in Item 5.02) is incorporated herein by reference.

Item 5.02 Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers

Appointment of Chief Financial Officer

On November 30, 2020, Bionik Laboratories Corp. (the “Company”) issued a press release publicly announcing the appointment of Rich Russo, Jr., age 40, as the Company’s new Chief Financial Officer. A copy of the press release is attached as Exhibit 99.1 to this Current Report on 8-K, and which is incorporated by reference herein. Mr. Russo replaces Leslie Markow as CFO, who shall remain with the Company as Deputy CFO through January 29, 2021, as described further below.

Mr. Russo Jr. has over 15 years of finance and accounting leadership experience and is a Certified Public Accountant.

From March 2017 through November 2020, Mr. Russo was the Vice President of Finance and United States Chief Financial Officer, of IcarbonX, a privately held digital health management company specialized in artificial intelligence and health data, and a predecessor PatientsLikeMe. While there, he was responsible for, among other things, the merger of three companies, fundraising, and the ultimate dissolution of certain affiliated companies.

From 2007-2016, Mr. Russo held various key leadership roles for Nasdaq-listed companies in life sciences, pharmaceutical and medical device industries. From September 2015 to October 2016, he served as Corporate Controller for Pieris Pharmaceuticals, Inc., a clinical stage biotechnology company, and prior to that, he had roles at Juniper Pharmaceuticals, a woman’s health company focused on developing therapeutics, and Cynosure, a medical device company focused on aesthetic treatment systems. In each of these roles, Mr. Russo was responsible for all finance activities and SEC reporting, including partnering closely with management to ensure effective and efficient financial procedures throughout the organizations. Mr. Russo started his career in 2005, where he served as an auditor at Pricewaterhouse Coopers in the assurance group.

Mr. Russo is a graduate of Bridgewater State University in Bridgewater, MA, where he graduated from a dual degree program, receiving his Bachelor of Science in Accounting and his Masters in Management and Accounting.

The Company entered into an Employment Agreement with Mr. Russo, effective as of November 30, 2020, his first day of employment (the “Employment Agreement”).

Mr. Russo shall be employed by the Company as its Chief Financial Officer until terminated pursuant to the termination provisions described in the Employment Agreement. Pursuant to the terms of the Employment Agreement, Mr. Russo shall receive an annual base salary of \$265,000 per annum. The annual base salary shall be reviewed on an annual basis. Mr. Russo may be entitled to receive an annual bonus of up to 30% of annualized actual base salary, based on performance in the previous fiscal year. He is also entitled to participate in the Company’s equity incentive plan, and shall be granted options to purchase an aggregate of 76,902 shares of the Company’s common stock, at an exercise price per share equal to the fair market value of the Company’s common stock on November 30, 2020, the date of grant, and which shall vest in full on November 30, 2021.

In the event Mr. Russo's employment is terminated as a result of death, his estate would be entitled to receive any earned base salary and accrued vacation earned up to the date of death.

In the event Mr. Russo's employment is terminated as a result of disability (as described in the Employment Agreement), Mr. Russo would be entitled to receive the annual salary, accrued vacation, and benefits through the date of termination.

In the event Mr. Russo's employment is terminated by the Company for cause, as defined in the Employment Agreement, Mr. Russo would be entitled to receive his unpaid base salary earned up to the date of termination.

In the event Mr. Russo's employment is terminated by the Company without cause, he would be entitled to receive six months' base salary, plus accrued vacation.

Mr. Russo may terminate the Employment Agreement and his employment at any time, for any reason, provided that he provides the Company with 30 days' prior written notice. In case of "good reason" (as defined in the Employment Agreement), the Company shall pay to Mr. Russo: (i) six months' salary; and (ii) accrued vacation time if any; provided that the Company shall not be required to pay the six months' salary in the event the Company elects to enforce the non-competition provisions of the Employment Agreement and pays to Mr. Russo as a result of such enforcement, no less than that amount in base salary.

The Employment Agreement contains customary non-competition, non-solicitation and non-disparagement provisions in favor of the Company. Mr. Russo also agreed to customary terms regarding confidentiality and ownership of intellectual property.

The foregoing is intended only to be a summary of the Employment Agreement, and is qualified in its entirety by reference to the Employment Agreement, a copy of which is attached as Exhibit 10.1 to this Current Report on 8-K, and which is incorporated by reference herein.

Termination of Leslie Markow as CFO

As of November 24, 2020, Leslie Markow, the Company's Chief Financial Officer, agreed to the termination of her employment with the Company as of January 29, 2021 (the "Termination Date"), and that as of November 30, 2020, she will act in the new role of Deputy CFO of the Company and assist with the transition of her former duties to Mr. Russo as her replacement as Chief Financial Officer.

Pursuant to a Letter Agreement between the Company and Ms. Markow executed on November 24, 2020 (the "Letter Agreement"), following the Termination Date, the Company will provide Ms. Markow with nine months of salary continuance, through October 29, 2021. Ms. Markow will also continue to be eligible to receive her prorated bonus for the fiscal year ending March 31, 2021, plus an additional bonus of \$23,625 paid out over the salary continuation period.

Ms. Markow will further continue to receive certain benefits and payment of accrued and unused vacation.

The amount of Ms. Markow's compensation that has been deferred in 2020 shall be subject to the following: (a) Ms. Markow will go back to full base salary as of December 1, 2020; and (b) the deferred amount of approximately US\$79,800 will be paid on January 29, 2021.

The foregoing is intended only to be a summary of the Letter Agreement, and is qualified in its entirety by reference to the Letter Agreement, a copy of which is attached as Exhibit 10.2 to this Current Report on 8-K, and which is incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

The following documents are furnished herewith as exhibits to this report:

| Exhibit Number | Description of Exhibit |
|-----------------------------|--|
| <u>10.1</u> | <u>Employment Agreement with Rich Russo, Jr.</u> |
| <u>10.2</u> | <u>Letter Agreement with Leslie Markow</u> |
| <u>99.1</u> | <u>Press Release</u> |

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.

Date: November 30, 2020

BIONIK LABORATORIES CORP.

By: /s/ Eric Dusseux

Name: Eric Dusseux

Title: Chief Executive Officer

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT, is made as of the Start Date (as defined below), by and between BIONIK LABORATORIES CORP., a Delaware corporation (hereinafter referred to as the “Company”), and Richard Russo (hereinafter referred to as the “Employee”).

RECITALS

WHEREAS, the Company, directly or through its subsidiaries, is engaged in the business of medical device research, development and production; and

WHEREAS, the Company and the Employee have agreed to enter into an employment relationship upon the terms and subject to the conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained and other good and valuable consideration, the parties agree as follows:

ARTICLE 1- EMPLOYMENT AND DUTIES

1.1 Appointment. Subject to the terms and conditions of this Agreement, the Company hereby agrees to employ the employee, and the Employee hereby accepts employment, in the position of Chief Financial Officer of the Company and as the Company’s principal financial and accounting officer (the “Position”), effective on the first day of employment with the Company, expected to be November 30th, 2020 unless otherwise mutually agreed between the Company and the Employee (the “Start Date”); provided that this Agreement shall not be binding on the Company until the Employee gives official notice of resignation to his previous employer and informs the Company of such resignation and the proposed Start Date.

1.2 Term. The Employee shall be employed until terminated pursuant to the termination provisions set out in Article 4 and Article 5 of this Agreement and to any amendments as may from time to time be agreed to in writing by the Employee and the Company (the “Term”).

1.3 Reporting and Duties. The Employee shall report to the Chief Executive Officer of the Company and to the Board of Directors of the Company (the “Board”). The Employee shall be responsible for (a) the preparation and implementation of the finance strategy and budget reviews for the Company, (b) preparation and delivery of all SEC and financial markets regulatory agencies reporting requirements, (c) operational management of cash flow, receivables, payables, expenses and payroll, (d) support the CEO in Investor Relation activities including fund raising, Board meetings and monitoring of shares, (e) perform all of the normal and customary duties, responsibilities and authorities customarily accorded to, and expected and required of the Position, including those duties, responsibilities and authorities as may be reasonably designated by the Chief Executive Officer of the Company or the Board from time to time, (f) providing to the Company such personal information as is necessary and appropriate for the Company to satisfy its reporting obligations under applicable United States securities laws and stock exchange rules and requirements and (g) certifying the Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q of the Company, and all other required filings, pursuant to Rule 13a-14(a) or 15d-14(a), and Rule 13a-14(b) or 15d-14(b), in each case promulgated under the United States Securities Exchange Act of 1934, as amended (collectively, the “Duties”).

Services performed pursuant to this Agreement shall be performed at the Company's U.S. headquarters in Boston, Massachusetts, or such place(s) as shall be mutually agreeable to the Company and Employee. The Employee understands and agrees that the Position requires travel to the Company's executive offices in Toronto, Canada from time to time, at least monthly and more during the initial three months of the Term, as well as other destinations, to fulfill the Duties. The Employee agrees to comply with all applicable policies and rules of Company. During the Term, the Employee shall faithfully and honestly serve the Company and devote no less than full-time service to the business and affairs of the Company or, where applicable, any subsidiary or other affiliate of the Company (individually a "Subsidiary" and collectively, the "Subsidiaries"), including the Employee's role in the Position and the Duties. The Employee shall use his best efforts to promote the interests of the Company and its Subsidiaries. Notwithstanding the foregoing or anything else to the contrary herein, nothing in this Agreement shall preclude the Employee from: (a) engaging in charitable, education, communal or recreational activities; or (b) engaging in another business enterprise as a passive investor; provided that in no event shall the Employee own more than 4.9% of any other business enterprise and further provided that no such business enterprise shall be a competitor of the Company or its Subsidiaries. However, the engagements described in 1.3(a) – (b) above shall only be permissible so long as they do not result in a contravention of Article 3 hereof, or impair the ability of the Employee to discharge his duties to the Company hereunder. In addition, the Employee shall truly and faithfully account for and deliver to the Company and its Subsidiaries, all money, securities and things of value belonging to the Company or the Subsidiaries which the Employee may from time to time receive for, from or on account of the Company or the Subsidiaries.

ARTICLE 2 - COMPENSATION

2.1 Base Salary. The Employee will receive an annual base salary of Two Hundred Sixty Five Thousand Dollars (\$265,000), payable in accordance with the Company's standard payroll practices in effect from time to time, and subject to applicable statutory deductions and withholding required by law ("Base Salary"). The Employee's Base Salary will be reviewed on an annual basis to determine potential increases, if any, based on the Employee's performance and that of the Company.

2.2 Incentive Compensation. The Employee will be entitled to participate in the Company's 2014 Equity Incentive Plan or other incentive plan or arrangement (the "Plan") based on the terms of the Plan. Subject to the immediately following sentence, the Employee shall be granted options to purchase an aggregate of 76,902 shares of the Company's common stock, , at an exercise price per share equal to the fair market value of the Company's common stock on the date of grant, and which shall vest on the one (1) year anniversary of the Start Date. The granting of any options or other equity compensation is conditional on the written approval of the Board (or applicable committee thereof), and subject to any applicable stockholder approval, and the Company reserves the right to alter, amend, replace or discontinue the Plan or any other plan at any time, with or without notice to the Employee.

2.3 Bonus. The Employee may be entitled to earn an annual bonus of up to 30% of Base Salary, payable based on performance in the previous fiscal year ("Bonus"). The Bonus will be determined based on the achievement of the Employee's objectives that will be agreed to with the CEO for each particular fiscal year (the "Achievements"), and paid to Employee within the earlier of 90 days after the close of each fiscal year and the completion of the company audit. The Achievements for the partial fiscal year ending March 31, 2021 shall be determined in good faith and agreed to in writing by the Employee and the Company within 14 days after the date of this Agreement, and shall be pro rata based on the Start Date.

2.4 Benefits. The Employee shall be entitled to participate in all of the Company's (or applicable Subsidiary's) benefit plans generally available to its employees from time to time in accordance with the terms thereof. The Employee's participation in such plans shall become fully effective as of the commencement of his employment hereunder pursuant to the terms of such plans. The Company reserves the right to alter, amend, replace or discontinue the benefit plans it makes available to its employees at any time, with or without notice.

2.5 Vacation. The Employee shall be entitled to four (4) weeks of paid vacation per calendar year. This amount is pro rata in the first year of employment. Such vacation shall be taken at a time or times acceptable to the Company. The Employee shall be allowed to carry forward a maximum of five (5) days unused vacation into the next calendar year.

2.6 Expense Reimbursement. The Employee shall be reimbursed for all reasonable expenses actually and properly incurred by him in connection with the performance of his duties hereunder. The Employee shall submit to the Company written, itemized expense accounts, together with supporting invoices, acceptable to the Company and such other additional substantiation and justification as the Company may reasonably request within sixty (60) days after the expenses have been incurred.

ARTICLE 3- COVENANTS

3.1 No Restrictions on Employee's Employment. The Employee acknowledges and affirms that he is not a party to any agreement or understanding that would conflict or interfere with, or prevent or limit him from being employed by or perform services for the Company.

3.2 Confidential Information. The Employee hereby acknowledges that, by reason of his employment with the Company, he has and will acquire information about matters and things which are confidential to the Company and/or the Subsidiaries (the "Confidential Information"), and which Confidential Information is the exclusive property of the Company and/or the Subsidiaries, respectively. The Confidential Information includes, without limitation, information concerning the Company's and the Subsidiaries' strategic plans, product research and development plans, details and results, trade secrets, supplier lists, data, work product developed by or for the Company or the Subsidiaries, and all other data and information concerning the business and affairs of the Company and the Subsidiaries. Notwithstanding anything to the contrary contained herein, for the purposes hereof, Confidential Information shall not include: (a) information that is generally available to and known by the public at the time of disclosure to the Employee, provided that such disclosure is through no direct or indirect fault of the Employee or person(s) acting on the Employee's behalf; or (b) information which the Employee is required to disclose pursuant to applicable law, policies or due processes of applicable regulatory bodies or legal or regulatory proceedings; provided that the Employee provides the Company with prompt notice of same and assists the Company in seeking to prevent or limit such requirement. The Employee agrees that during the Term and at all times thereafter, he shall not for any reason (except in the performance of his responsibilities for the Company) directly or indirectly, (i) use for his own benefit or for the benefit of others, (ii) disseminate, publish or disclose, or (iii) authorize or permit the use, dissemination or disclosure by any person, firm or entity, any Confidential Information without the express written consent of the Board. Upon termination of the Employee's employment or this Agreement, or at any time at the request of the Company for any reason, the Employee agrees to return to the Company (or, in the case of electronic items, permanently delete) all documents, records, storage, data, samples, and other property of the Company and its Subsidiaries, together with all copies thereof which contain or incorporate any Confidential Information. Pursuant to the Defend Trade Secrets Act of 2016, the Employee acknowledges that the Employee shall not have criminal or civil liability under any federal or state trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. In addition, if Employee files a lawsuit for retaliation by the Company for reporting a suspected violation of law, Employee may disclose the trade secret to Employee's attorney and may use the trade secret information in the court proceeding, if Employee (x) files any document containing the trade secret under seal and (y) does not disclose the trade secret, except pursuant to court order.

3.3 Intellectual Property, Inventions and Patents. As part of the consideration for this Agreement and for his employment by the Company, subject to the provisions of this Agreement, the Employee hereby assigns to the Company, as and when same arise, his entire right, title and interest, including all intellectual property rights and trade secret rights, in and to any and all work product that is conceived, created, developed or otherwise generated by the Employee from time to time that relates to the business of the Company or the Subsidiaries, including but not limited to all inventions, research, designs, trade secrets, improvements, plans, specifications and documentation (collectively, "Work Product"), all of which shall be deemed a work for hire for the Company under the U.S. Copyright Act to the fullest extent permitted under the law. The Employee further agrees that he will promptly, fully disclose to the Company all such Work Product and will, at any time from the date hereof, including during and after his employment with the Company, at the Company's expense, render to the Company or the Subsidiaries such cooperation and assistance as the Company or the Subsidiaries may deem advisable in order to obtain copyright, patent, trademark or industrial design registrations as the case may be on, or otherwise vest, perfect or defend the Company's or the Subsidiaries' rights with respect to, any or all Work Product. Such cooperation and assistance shall include, but is not limited to, the execution of any and all applications for copyright, patent, trademark or industrial design registrations, assignments of copyrights and other instruments in writing which the Company and the Subsidiaries may deem necessary or desirable. The Employee hereby irrevocably waives all of his moral rights in the Work Product in favor of the Company and its Subsidiaries and their respective successors, assignees and licensees. The Employee shall take all precautions to maintain and protect the legal rights of the Company and its Subsidiaries in the Work Product, and to maintain the confidentiality of trade secrets included in the Work Product in accordance with Section 3.1 hereof. For certainty, no license to the Work Product is granted to the Employee, except to the extent required for the performance of his responsibilities under this Agreement. The Employee irrevocably appoints any other officer of the Company or the Subsidiaries from time to time to be his attorney, with full power of substitution, to do on the behalf of the Employee anything that the Employee can lawfully do by an attorney to do all acts and things in relation to ownership of the Work Product which the Company or the Subsidiaries shall deem desirable, and to do, sign and execute all documents, conveyances, deeds, assignments, transfers, assurances and other instruments which may reasonably be necessary or desirable for the purpose of registering, vesting, perfecting; defending, assigning or otherwise dealing with the Work Product. Such power of attorney is given for valuable consideration acknowledged by the Employee to be coupled with an interest, shall not be revoked by the bankruptcy or insolvency of the Company or the Subsidiaries, and may be exercised by the officers of any successor or assign of the Company or the Subsidiaries. The Employee hereby covenants that the Work Product will not violate or infringe any intellectual property rights of any third party or constitute an unauthorized use of confidential or proprietary information of any third party. All of the aforesaid covenants in this Section shall be binding on the assigns, executors, administrators and other legal representatives of the Employee.

3.4 Non-Solicitation of Employees. The Employee shall not, during the period from the date hereof to that date which is one (1) year following the later of termination of this Agreement or the termination of the Employee's employment, for any reason, directly or indirectly, hire any employees or consultants of the Company and/or Subsidiaries (or any individual who was an employee or consultant of the Company at any time during the 12-month period preceding any such inducement, hire or solicitation), or induce or attempt to induce, or solicit or attempt to solicit, any of the employees or consultants of the Company and/or Subsidiaries to leave their employment or engagement with the Company.

3.5 Non-Solicitation of Customers and Suppliers. The Employee shall not, during the period from the date hereof to that date which is one (1) year following the later of termination of this Agreement or the termination of the Employee's employment, for any reason, directly or indirectly, without the prior written consent of the Company, solicit or attempt to solicit any customers of the Company or the Subsidiaries with whom the Employee had contact or material knowledge of, for the purpose of selling to those customers any products or services which are the same as or substantially similar to or in any way competitive with the products or services sold by the Company or the Subsidiaries at the time of termination of this Agreement. The Employee shall not, during the period from the date hereof to that date which is one (1) year following the termination of this Agreement or the termination of the Employee's employment, for any reason, directly or indirectly, without the prior written consent of the Company, solicit or attempt to solicit any suppliers of the Company or the Subsidiaries with whom the Employee had contact with or material knowledge of, for the purpose of diverting or attempting to divert business away from the Company or the Subsidiaries.

3.6 Non-Competition. The Employee shall not, at any time during the period from the date hereof to that date which is one (1) year following the later of termination of this Agreement or the termination of the Employee's employment, engage in the commercialization of medical devices similar to those, or devices that are in any way competitive with the products or services, developed, being developed, commercialized and/or sold by the Company or the Subsidiaries during the term of this Agreement and at the time of the termination of this Agreement ("Competitive Activity"). The Employee may not engage in such Competitive Activity either individually or in partnership or jointly or in conjunction with any person as principal, agent, employee, consultant, shareholder (other than a holding of shares listed on a United States stock exchange that does not exceed five percent (5%) of the outstanding shares so listed) or in any other manner whatsoever, nor shall the Employee lend money to, guarantee the debts or obligations of or permit his name or any part thereof to be used or employed by any person engaged in a similar business to the Company or the Subsidiaries. The Company shall have the option to elect whether to enforce this Section 3.6. If the Company elects to enforce this Section 3.6, it shall continue to pay the Employee's base salary (at the rate at which it was paying the Employee's base salary on the date of termination) for as long as it wishes to enforce this Section 3.6, up to one (1) year following termination of employment. The Company's payment obligation pursuant to this Section 3.6 shall apply regardless of the circumstances or reasons leading to the termination of the Employee's employment. If the Company fails to continue the Employee's base salary pursuant to the terms of this Section 3.6, the Employee's restrictions set forth in this Section 3.6 shall be void thereafter.

3.7 Disparaging Comments. The Employee agrees not to make critical, negative or disparaging remarks about the Company or its management, business or employment practices; provided that nothing in this paragraph shall be deemed to prevent the Employee from responding fully and accurately to any question, inquiry or request for information when required by applicable law or legal process, or to enforce this Agreement. The Company agrees to direct its officers and directors not to make critical, negative or disparaging remarks about the Employee; provided that nothing in this paragraph shall be deemed to prevent the Company or its officers or directors from responding fully and accurately to any question, inquiry or request for information when required by applicable law or legal process, or to enforce this Agreement.

3.8 Acknowledgement, Waiver and Enforcement. The Employee confirms that the restrictions contained in this Article 3 are reasonable and valid to protect the legitimate business interests of the Company and the Subsidiaries, including its business plans and marketing and commercialization strategies. The Employee hereby agrees and acknowledges that it would be extremely difficult to measure the damages that might result from any breach of any of the covenants of the Employee contained herein and that any breach of any of the covenants of the Employee might result in irreparable injury to the business for which monetary damages could not adequately compensate. If a breach of any of the covenants of the Employee occurs, the Company shall be entitled, in addition to any other rights or remedies the Company may have at law or in equity, to have an injunction issued by any competent court (without the need to post a bond) enjoining and restricting the Employee and all other parties involved therein from continuing such breach.

3.9 Notwithstanding anything to the contrary herein, if any applicable law, court or governmental entity shall reduce the time period or scope during which the Employee shall be prohibited from engaging in any competitive or soliciting activity described in this Article 3, the period of time or scope, as the case may be, for which the Employee shall be prohibited shall be reduced to the maximum time or scope permitted by law.

3.10 Survival and Enforceability. It is expressly agreed by the parties hereto that the provisions of this Article 3 shall survive the termination of this Agreement and the Employee's employment.

ARTICLE 4 – DEATH; DISABILITY

4.1 Death. If the Employee dies while employed under this Agreement, this Agreement shall terminate immediately and the Company shall pay to the Employee's estate, any earned Base Salary and accrued vacation, if any, that is unpaid up to the date of his death.

4.2 Termination by Disability. The Company may terminate this Agreement as a result of any mental or physical disability or illness which results in (a) the Employee being unable to substantially perform his duties for a continuous period of 150 days or for periods aggregating 180 days within any period of 365 days or (b) the Employee being subject to a permanent or indefinite inability to perform essential functions based on the opinion of a qualified medical provider chosen by the Company. Termination will be effective on the date designated by the Company, and the Employee will be paid his annual Base Salary, accrued vacation, if any, and benefits as set out in Section 2.4 through the date of termination.

ARTICLE 5 - TERMINATION OF EMPLOYMENT

5.1 Termination by Company for Cause. The Company may terminate this Agreement for cause at any time without any prior notice. The Employee will be provided with any unpaid, earned Base Salary incurred up to the date of termination. For the purposes of this Agreement, "cause" shall mean any of: (a) a material breach by the Employee of the terms of this Agreement; (b) a conviction of or plea of guilty or nolo contendere to any felony or any other crime involving dishonesty or moral turpitude; (c) the commission of any act of fraud or dishonesty, or theft of or intentional damage to the property of the Company; (d) willful or intentional breach of the Employee's fiduciary duties to the Company; (e) the violation of a material policy of the Company as in effect from time to time; or (f) any act or conduct that would constitute cause at common law.

5.2 Termination by Company for Other than Cause. The Company may terminate this Agreement and the Employee's employment, for any reason without cause and provided that the Employee executes a general release to be provided to the Company in form and substance acceptable to the Company, the Company shall pay to the Employee an amount equal to six (6) months' Base Salary as provided in Section 2.1 (the "Severance") plus accrued unused vacation, if any; provided that the Company shall not be required to pay the Severance in the event the Company elects to enforce Section 3.6, and continues paying Employee's salary pursuant to Section 3.6 in an amount no less than the Severance amount.

5.3 Termination by Employee. The Employee may terminate this Agreement and his employment at any time, for any reason, provided that the Employee provides the Company with thirty (30) days' prior written notice. The Employee agrees to use his best effort to assist the Company to complete an effective reallocation of his responsibilities upon the giving of such notice. In case of Good Reason (as defined below), the Company shall pay to the Employee: (i) the Severance; and (ii) accrued vacation time if any; provided that the Company shall not be required to pay the Severance in the event the Company elects to enforce Section 3.6, and continues paying Employee's salary pursuant to Section 3.6 in an amount no less than the Severance amount. For purposes of this Employment Agreement, "Good Reason" shall mean any of: (1) A material diminution in the Employee's base compensation; (2) A material diminution in the Employee's authority, duties, or responsibilities; or (3) Any other action or inaction that constitutes a material breach by the Company of this Employment Agreement. For Good Reason to exist, the Employee must provide notice to the Company of the existence of any of the foregoing conditions within ninety (90) days of the initial existence of the condition, and the Company shall upon such notice have a period of forty-five (45) days during which it may remedy the condition (and upon such remedy Good Reason shall be deemed not to have existed).

5.4 Limitation of Liability. The Employee acknowledges, understands and agrees that the payments and other benefits provided for in this Article 5 represent the Company's maximum termination and severance obligations to the Employee. No other notice or severance or other payments or entitlements shall apply except as specifically set forth herein. This provision shall remain in full force and effect unamended, notwithstanding any other alterations to the terms and conditions of the Employee's employment, unless agreed to by the Company in writing. The Employee also acknowledges, understands and agrees that any such payment by the Company to the Employee on termination of the Employee's employment shall not prevent the Company from alleging cause for the termination.

5.5 Effect of Termination. Upon any termination of this Agreement, the Employee shall immediately deliver or cause to be delivered to the Company all Confidential Information and Company property which are in the possession, charge, control or custody of the Employee.

ARTICLE 6 - GENERAL

6.1 Release. Upon compliance with the applicable termination provisions of this Agreement by the Company, the Employee agrees to deliver to the Company a full and final written general release in form and substance acceptable to the Company.

6.2 Recitals. The parties agree that the Recitals set out herein are true and accurate and shall form part of this Agreement.

6.3 Headings. The division of this Agreement into articles and sections and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement.

6.4 Assignment. This Agreement shall be personal as to the Employee and shall not be assignable by the Employee subject to the terms herein. This Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators and legal personal representatives of the Employee and the successors and assigns of the Company. The Company may assign this Agreement, in its sole discretion, to any corporate affiliate or Subsidiary of the Company.

6.5 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto, whether verbal or in writing. There are no other written or verbal representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory between the parties.

6.6 Amendments. No amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by both of the parties hereto. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.

6.7 Severability. In the event any portion of this Agreement is held to be invalid or unenforceable, the invalid or unenforceable portion or provision shall not affect any other provision hereof and this Agreement shall be construed and enforced as if the invalid provision had not been included. The parties further agree that a court is expressly authorized to modify any unenforceable provision of this Agreement by making such modifications as it deems warranted to carry out the intent and agreement of the parties hereto, which is to enforce the Agreement and each of the provisions contained herein to the maximum extent permitted by law.

6.8 Further Acts. The parties shall do all such further acts and things and provide all such assurances and deliver all such documents in writing as may be required, from time to time in order to fully carry out the terms, provisions and intent of this Agreement.

6.9 Notice. Any demand, notice or other communication to be given in connection with this Agreement shall be given in writing by personal delivery, electronic delivery or by registered mail addressed to the recipient as follows:

Bionik Laboratories Corp.
483 Bay Street, N105
Toronto, Ontario M5G 2C9
Telephone: (416) 640-7887
Email: ed@bioniklabs.com

Richard Russo
At the most recent address on file with the Company
Email: rich_russojr@yahoo.com

or such other address or number as may be designated by either party to the other in accordance herewith. Any notice given by personal delivery will be conclusively deemed to have been given on the day of actual delivery of the notice and, if given by registered mail, on the third day, other than a Saturday, Sunday or statutory holiday in Ontario, Canada or the Commonwealth of Massachusetts, following the deposit of the notice in the mail. If the party giving any notice knows or ought reasonably to know of any difficulties with the postal system that might affect the delivery of mail, any such notice may not be mailed but must be given by personal delivery. In the case of electronic delivery, on the same day that it was sent if sent on a business day and the acknowledgement of receipt is received by the sender before 5:00 p.m. (in the place of receipt) on such day, and otherwise on the first business day thereafter.

6.10 Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. Each of the parties hereto agrees that any action or proceeding related to this Agreement must be brought in any court of competent jurisdiction in the Commonwealth of Massachusetts, and for that purpose hereby submits to the jurisdiction of such Massachusetts court.

6.11 Section 409A. This Agreement is intended to comply with or be exempt from Section 409A of the Code and will be interpreted, administered and operated in a manner consistent with that intent. Notwithstanding anything herein to the contrary, if at the time of the Employee's separation from service with the Company he is a "specified employee" as defined in Section 409A of the Code (and the regulations thereunder) and any payments or benefits otherwise payable hereunder as a result of such separation from service are subject to Section 409A of the Code, then the Company will defer the commencement of the payment of any such payments or benefits hereunder (without any reduction in such payments or benefits ultimately paid or provided to the Employee) until the date that is six months following the Employee's separation from service with the Company (or the earliest date as is permitted under Section 409A of the Code), and the Company will pay any such delayed amounts in a lump sum at such time. If any other payments of money or other benefits due to the Employee hereunder could cause the application of an accelerated or additional tax under Section 409A of the Code, such payments or other benefits shall be deferred if deferral will make such payment or other benefits compliant under Section 409A of the Code, or otherwise such payment or other benefits shall be restructured, to the extent possible, in a manner, determined by the Company, that does not cause such an accelerated or additional tax. To the extent any reimbursements or in-kind benefits due to the Employee under this Agreement constitute "deferred compensation" under Section 409A of the Code, any such reimbursements or in-kind benefits shall be paid to the Employee in a manner consistent with Treas. Reg. Section 1.409A-3(i)(1)(iv). Each payment made under this Agreement shall be designated as a "separate payment" within the meaning of Section 409A of the Code. References to "termination of employment" and similar terms used in this Agreement are intended to refer to "separation from service" within the meaning of Section 409A of the Code to the extent necessary to comply with Section 409A of the Code. Whenever a payment under this Agreement may be paid within a specified period, the actual date of payment within the specified period shall be within the sole discretion of the Company. In no event may the Employee, directly or indirectly, designate the calendar year of any payment to be made under this Agreement. Any provision in this Agreement providing for any right of offset or set-off by the Company shall not permit any offset or set-off against payments of "non-qualified deferred compensation" for purposes of Section 409A of the Code or other amounts or payments to the extent that such offset or set-off would result in any violation of Section 409A or adverse tax consequences to the Employee under Section 409A.

6.12 Independent Legal Advice. The Employee acknowledges that he has been advised to seek independent legal counsel in respect of the Agreement and the matters contemplated herein. To the extent that he declines to receive independent legal counsel in respect of the Agreement, he waives the right, should a dispute later develop, to rely on his lack of independent legal counsel to avoid his obligations, to seek indulgences from the Company or to otherwise attack the integrity of the Agreement and the provisions thereof, in whole or in part.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto as of the date first written above.

BIONIK LABORATORIES CORP.

Monday, Oct 26, 2020

By: /s/ Eric Dusseux

Name: Eric Dusseux

Title: CEO

/s/ Richard Russo

NAME: Richard Russo



Without Prejudice

November 23, 2020

Leslie Markow
215 Glendonwynne Road
Toronto, ON
M6P 3G4

**Revised – Supersedes letter dated November 19, 2020
Private & Confidential**

Dear Leslie,

As discussed with you, we propose that your employment with Bionik Laboratories Inc. (the “Company”) will be terminated on January 29, 2021 (the “Termination Date”), and that beginning November 30, 2020 through the Termination Date, you would be required to support a smooth transition of responsibilities to a newly appointed CFO, and your responsibilities will become those of Deputy CFO.

Following the Termination Date, the Company would provide you with nine (9) months of pay in the form of salary continuance (the “Salary Continuance”). You will receive the Salary Continuance in accordance with regular payroll practices. The Salary Continuance will end on October 29, 2021.

In addition to the Salary Continuance, the Company would provide you with the following bonus entitlements:

1. You would continue to be eligible to receive your FY2021 Bonus, prorated between April 1, 2020 and your Termination Date. This amount would be paid to you in accordance with the schedule set out by the Company and agreed by the Board, but no later than October 29, 2021; and,
2. During the Salary Continuance, and in addition to your base salary, you would be paid an amount representing your pro-rata bonus based on the average of the past three (3) years of actual achievement (which is 50% of your target amount). The total amount of the nine (9) month pro-rata bonus is \$23,625 USD.

All Company Group Benefits (as provided by Canada Life) would continue for the nine (9) months of the Salary Continuance period, to end on October 29, 2021, or the date you obtain replacement benefits, with the exception of Long-term disability benefits (LTD) which would cease on March 12, 2021. After October 29, 2021, you may elect to continue on Canada Life benefits personally. You would also maintain your eligibility for the Company RRSP matching program and Health Spending Account (HSA) during the Salary Continuance period. HSA is prorated to \$625 in 2021 and payable in November 2021. Receipts for HSA continue to be required.

Any accrued and unused vacation would be paid to you on the Termination Date.

As it relates to the Salary deferral letter dated March 19, 2020 and signed by you, the following would apply:

- Your Salary Deferral would cease and you will return to full base salary effective December 1, 2020.
- The deferred salary amounts (in the amount of \$42,000USD) would be paid to you on January 29, 2021, converted to Canadian dollars at the average monthly exchange rates as it was earned.
- You would receive your deferred FY2020 Bonus (in the amount of \$37,800 USD) which would be paid to you on January 29, 2021, converted to Canadian dollars at the exchange rate of 1.36.

All payments set out above are subject to applicable deductions and withholdings. Aside from what is outlined above, no additional monies would be paid to you by the Company.



The above amounts are provided in excess of your entitlement under your employment agreement and in full satisfaction of all liability; statutory *Employment Standards Act*, 2000, as amended), common law and otherwise.

The terms we propose above and your receipt of the Salary Continuance and benefits described above is conditional upon you signing this letter and the attached release (“Schedule A”) by no later than **5PM EST on November 25, 2020** and maintaining performance to the satisfaction of the Company until the Termination Date.

Sincerely,

/s/ Eric Dusseux

Eric Dusseux
CEO
Bionik Laboratories Corp.

I acknowledge that I understand and accept the terms outlined above.

/s/ Leslie Markow

Signature
Leslie Markow

11/24/2020

Date

SCHEDULE "A"
FULL AND FINAL RELEASE AND INDEMNITY

IN CONSIDERATION of the terms and conditions as set out in the termination letter dated November 19, 2020, and revised November 23, 2020, the receipt and sufficiency of which is hereby acknowledged, I, **LESLIE MARKOW**, on behalf of myself, my heirs, executors, administrators, successors and assigns (hereinafter collectively referred to as the "Releasor") hereby fully and finally release and forever discharge **BIONIK LABORATORIES INC.**, along with all direct and indirect shareholders, parents, subsidiaries, affiliates and associated companies, together with all of their employees, officers, directors, lawyers, servants, representatives and agents and their respective successors and assigns (hereinafter collectively referred to as the "Releasees"), jointly and severally from any and all actions, causes of actions, complaints, claims for benefits or insurance, contracts, promises, covenants, whether express or implied, claims and demands, indemnity, costs, interest, expenses, loss or injury, present, past or future, of every nature and kind whatsoever and howsoever arising, whether statutory or otherwise, which I may heretofore have had, now have, or may hereinafter have, against the Releasees.

AND FOR THE SAID CONSIDERATION it is further agreed that the Releasor shall not make any claims (including any cross-claims, counter-claims, third party claims, actions or applications) or take any proceedings against any person or corporation who might claim contribution or indemnity against the Releasees.

AND FOR THE SAID CONSIDERATION, I further covenant and agree to save harmless and indemnify the Releasees from and against any and all claims, charges, taxes, penalties or demands which may be made by the Canada Revenue Agency requiring the Releasees to pay income tax, charges, taxes or penalties under the *Income Tax Act (Canada)* in respect of income tax payable by me in excess of income tax previously withheld; and in respect of any and all claims, charges, taxes or penalties and demands which may be made on behalf of or related to the Employment Insurance Commission and the Canada Pension Commission under the applicable statutes and regulations with respect to any amounts which may in the future be found to be payable by the Releasees in respect of the Releasor.

I HEREBY ACKNOWLEDGE that upon receipt of the payments set out in the attached letter revised dated November 23, 2020, I will have received all payments and amounts owing to me under the applicable domestic or foreign employment standards legislation and that the payments made to me herein constitute a greater benefit and are in full and final satisfaction of any further entitlements I may have pursuant to the applicable domestic or foreign employment standards legislation.

I FURTHER ACKNOWLEDGE that I have not been subjected to any form of discrimination whatsoever and hereby represent and warrant that I have not commenced any complaint or application, and undertake not to commence any complaint or application, under the applicable domestic or foreign human rights legislation.



IT IS UNDERSTOOD AND AGREED that the aforementioned consideration is deemed to be no admission of liability on the part of the said Releasees.

IT IS HEREBY FURTHER COVENANTED AND AGREED that I will not disclose the terms or the nature of the settlement evidenced by the within final release, save and except for my spouse, my legal and financial advisors, and as may be required by law.

I HEREBY AGREE not to make any disparaging comments to any third party relating to the Releasees or any employee, Director or Officer of the Releasees.

I HEREBY CONFIRM that I have been afforded an opportunity to independently review and read and obtain independent advice with respect to the details of this Final Release and Indemnity and the Settlement relating thereto and confirm that I am executing this Final Release and Indemnity freely, voluntarily and without duress.

IN WITNESS WHEREOF I have hereunto executed this Release by affixing my hand and seal this ____ day of _____, 2020 in the presence of the witness whose signature is subscribed below.

SIGNED AND DELIVERED in the presence of:

LESLIE MARKOW

Witness Name

Witness Signature

Bionik Laboratories | 483 Bay Street, Office: N105 · Toronto, ON M5G 2C9 | info@bioniklabs.com | www.bioniklabs.com



BIONIK Laboratories Corp. Appoints Rich Russo, Jr. as CFO

Rich Russo, Jr. brings substantial leadership and financial experience to BIONIK

TORONTO & BOSTON -- BIONIK Laboratories Corp. (OTCQB: BNKL), a robotics company focused on providing rehabilitation and assistive technology solutions to individuals with neurological and mobility challenges from hospital to home, today announced the appointment of Richard Russo, Jr. as Chief Financial Officer, effective today, November 30, 2020. Russo, Jr. will report directly to Dr. Eric Dusseux, BIONIK's Chief Executive Officer.

Russo, Jr. joins BIONIK from ICarbonX, a privately held digital health management company specializing in artificial intelligence and health data, where he held the role of Vice President of Finance and U.S. Chief Financial Officer. He originally joined PatientsLikeMe (PLM), then supported the business through the merger of PLM, ICarbonX and HealthTell, where he was instrumental in helping to close an investment by key Asian investors. There, he was responsible for establishing the financial strategies, policies and procedures that scale for a much larger and global company. As a member of their leadership team, he worked to develop and implement approaches that improved working capital as well as support the overall management and strategic direction of the global company.

"We would like to thank Leslie Markow for her contributions as CFO to BIONIK Laboratories and for all of the work she has put in during her time with the Company, as she transitions into the temporary role of Deputy CFO," said Dr. Eric Dusseux, Chief Executive Officer, BIONIK Laboratories. "We are excited to add someone of Rich's stature and financial experience to a leadership role during this important time of growth for our Company. His experience in leading finance teams and growing public companies, his financial expertise in the field of artificial intelligence in health data companies, and his exposure to Asia will be a tremendous asset for us moving forward. We welcome him and look forward to his insights."

Before ICarbonX, Russo, Jr. held several key financial leadership roles. He served as Corporate Controller for Pieris Pharmaceuticals, Inc., a clinical stage biotechnology company listed on the NASDAQ.

Prior to that, at the Nasdaq-listed Juniper Pharmaceuticals, Russo, Jr. held the role of Corporate Controller and led a team responsible for the finance function and SEC reporting. At Cynosure, also listed on the NASDAQ stock market, in the role of Corporate U.S. Controller, Russo, Jr. led a team responsible for all finance activities and the consolidation of several subsidiaries. In this role, he partnered closely with the business leaders to ensure effective and efficient financial procedures throughout the organization.



Russo, Jr. began his finance career as an auditor with Pricewaterhouse Coopers in their Boston office, and brings over 15 years of finance experience in publicly traded companies operating in artificial intelligence, data, healthcare and manufacturing sectors to his role at BIONIK.

“I am excited to step into the CFO role at BIONIK to help the company continue executing its strategic plan, accelerate growth, and deliver value to its shareholders,” said Russo, Jr. “The company has made significant strides this year and is well positioned to address some very attractive markets. I am energized by this opportunity and look forward to contributing to the Company’s success.”

Russo, Jr. is a graduate of Bridgewater State University’s dual degree program, where he received his Bachelor of Science in Accounting and his Masters in Management and Accounting. He also holds the CPA designation.

About BIONIK Laboratories Corp.

BIONIK Laboratories is a robotics company focused on providing rehabilitation and mobility solutions to individuals with neurological and mobility challenges from hospital to home. The Company has a portfolio of products focused on upper and lower extremity rehabilitation for stroke and other mobility-impaired patients, including three products on the market and two products in varying stages of development.

For more information, please visit www.BIONIKlabs.com and connect with us on [Twitter](#), [LinkedIn](#), and [Facebook](#).

Forward-Looking Statements

Any statements contained in this press release that do not describe historical facts may constitute forward-looking statements. Forward-looking statements, which involve assumptions and describe our future plans, strategies, and expectations, are generally identifiable by use of the words "may," "should," "would," "will," "could," "scheduled," "expect," "anticipate," "estimate," "possible," "believe," "intend," "seek," or "project" or the negative of these words or other variations on these words or comparable terminology. Forward-looking statements may include, without limitation, statements regarding (i) the plans and objectives of management for future operations, including plans or objectives relating to the design, development and commercialization of robotic rehabilitation products and other Company products, (ii) a projection of income (including income/loss), earnings (including earnings/loss) per share, capital expenditures, dividends, pipeline of potential sales, capital structure or other financial items, (iii) the Company's future financial performance, (iv) the market and projected market for our existing and planned products and (v) the assumptions underlying or relating to any statement described in points (i), (ii), (iii) or (iv) above. Such forward-looking statements are not meant to predict or guarantee actual results, performance, events or circumstances, and may not be realized because they are based upon the Company's current projections, plans, objectives, beliefs, expectations, estimates and assumptions, and are subject to a number of risks and uncertainties and other influences, many of which the Company has no control. Actual results and the timing of certain events and circumstances may differ materially from those described by the forward-looking statements as a result of these risks and uncertainties. Factors that may influence or contribute to the inaccuracy of the forward-looking statements or cause actual results to differ materially from expected or desired results may include, without limitation, the Company's inability to obtain additional financing, the inability to meet listing standards to uplist to a national stock exchange, the significant length of time and resources associated with the development of our products and related insufficient cash flows and resulting illiquidity, the impact on the Company's business as a result of the Covid-19 pandemic, the Company's inability to expand the Company's business, significant government regulation of medical devices and the healthcare industry, lack of product diversification, volatility in the price of the Company's raw materials, and the Company's failure to implement the Company's business plans or strategies. These and other factors are identified and described in more detail in the Company's filings with the SEC. The Company does not undertake to update these forward-looking statements.

Media contact:
Ashley Willis
FischTank PR
ashley@fischtankpr.com
