

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

FORM S-8

REGISTRATION STATEMENT UNDER
THE SECURITIES ACT OF 1933

AVID BIOSERVICES, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
of incorporation or organization)

2642 Michelle Drive, Suite 200, Tustin, California
(Address of principal executive offices)

95-3698422
(IRS Employer
Identification No.)

92780
(Zip Code)

2018 Omnibus Incentive Plan
(Full title of the plan)

Mark R. Ziebell
Vice President and General Counsel
2642 Michelle Drive, Suite 200
Tustin, California 92780
(714) 508-6100

(Name, address and telephone number, including area code, of agent for service)

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 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 Accelerated filer Non-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 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered ⁽¹⁾	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, \$0.001 par value per share: Shares reserved for issuance under the 2018 Omnibus Incentive Plan	7,152,404 ⁽²⁾	\$ 5.347 ⁽³⁾	\$ 38,243,904	\$ 4,635
Common Stock, \$0.001 par value per share: Outstanding awards under the 2018 Omnibus Incentive Plan	99,520 ⁽⁴⁾	\$ 5.403 ⁽⁵⁾	\$ 537,707	\$ 65
TOTAL	<u>7,251,924</u>		<u>\$ 38,781,611</u>	<u>\$ 4,700</u>

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement shall also cover any additional shares of the Registrant's common stock, par value \$0.001 per share (the "Common Stock"), that may become issuable under the 2018 Omnibus Incentive Plan (the "2018 Plan") by reason of any stock dividend, stock split, recapitalization or similar adjustments.
- (2) Represents (a) 2,350,000 shares of Common Stock initially available for awards under the 2018 Plan reserved for issuance pursuant to the 2018 Plan, plus (b) an aggregate of 1,892,100 shares of Common Stock previously reserved but unissued and not subject to outstanding awards under the Registrant's 2009 Stock Incentive Plan, 2010 Stock Incentive Plan and 2011 Stock Incentive Plan (the "Prior Plans") that are now available for issuance under the 2018 Plan, plus (c) up to an aggregate of 3,009,824 shares of Common Stock reserved but unissued and subject to outstanding awards under the Prior Plans, less (d) 99,520 shares of Common Stock underlying stock options granted pursuant to the 2018 Plan and outstanding as of the date of this Registration Statement. To the extent outstanding awards under the Prior Plans are forfeited or lapse unexercised prior to the expiration of such Prior Plans, the shares of common stock subject to such awards will be available for issuance under the 2018 Plan.
- (3) Estimated solely for the purpose of calculating the registration fee pursuant to Rules 457(c) and 457(h) of the Securities Act based upon the average of the high and low sales prices of the Registrant's Common Stock as reported on the NASDAQ Capital Market on December 3, 2018.
- (4) Represents shares of Common Stock subject to outstanding stock option awards previously granted under the 2018 Omnibus Incentive Plan.

- (5) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(h) of the Securities Act based upon the weighted average exercise price for outstanding stock option awards granted pursuant to the 2018 Plan.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The documents containing the information specified in Part I of this Form S-8 will be delivered to each employee, officer, director or other person, as specified by Rule 428(b)(1) under the Securities Act of 1933, as amended (the "Securities Act"), who is eligible to participate in the Avid Bioservices, Inc. 2018 Omnibus Incentive Plan (the "2018 Plan"). These documents are not being filed with the Securities and Exchange Commission (the "SEC") either as part of this registration statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. These documents and the documents incorporated by reference into this registration statement pursuant to Item 3 of Part II of this Form S-8, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Certain Documents by Reference.

The following documents filed by Avid Bioservices, Inc. (the "Company" or "Registrant") with the SEC are incorporated by reference into this Registration Statement and are deemed to be a part hereof from the date of filing:

1. The Company's Annual Report on Form 10-K for the fiscal year ended April 30, 2018, as filed with the SEC on July 16, 2018.
2. The Company's Definitive Proxy Statement with respect to the 2018 Annual Meeting of Stockholders held on October 4, 2018, as filed with the SEC on August 17, 2018.
3. The Company's Quarterly Report on Form 10-Q for the quarterly periods ended July 31, 2018 and October 31, 2018, as filed with the SEC on September 10, 2018 and December 10, 2018, respectively.
4. The Company's Current Reports on Form 8-K filed on June 6, 2018, July 13, 2018, July 17, 2018, September 5, 2018, October 4, 2018 and December 6, 2018.
5. The description of the Company's Common Stock, \$0.001 par value, is contained in the Company's Registration Statements on Form 8-A and Form 8-B (Registration of Successor Issuers) including any amendments or reports filed for the purpose of updating such information.

In addition, all documents subsequently filed by the Company pursuant to Section 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (the "Act"), after the date of this Registration Statement and prior to the filing of a post-effective amendment that indicates that all securities offered have been sold or that deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing of such documents. Any statement contained in a document incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document that is incorporated by reference herein modifies or supersedes such earlier statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Nothing in this registration statement shall be deemed to incorporate information furnished but not filed with the SEC pursuant to Item 2.02 or Item 7.01 of Form 8-K.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law empowers a corporation to indemnify its directors and officers and to purchase insurance with respect to liability arising out of their capacity or status as directors and officers, provided that the person acted in good faith and in a manner the person reasonably believed to be in our best interests, and, with respect to any criminal action, had no reasonable cause to believe the person's actions were unlawful. The Delaware General Corporation Law further provides that the indemnification permitted thereunder shall not be deemed exclusive of any other rights to which the directors and officers may be entitled under the corporation's bylaws, any agreement, a vote of stockholders or otherwise. The Bylaws of the Registrant provide for the indemnification of the Registrant's directors and officers to the fullest extent permitted under the Delaware General Corporation Law. In addition, the Bylaws of the Registrant require the Registrant to fully indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding (whether civil, criminal, administrative or investigative) by reason of the fact that such person is or was a director, or officer of the Registrant, or is or was a director or officer of the Registrant serving at the Registrant's request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, against expense, liability and loss (including attorney's fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such person in connection with such action, suit or proceeding, to the fullest extent permitted by applicable law.

Section 102(b)(7) of the Delaware General Corporation Law permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except (1) for any breach of the director's duty of loyalty to the corporation or its stockholders, (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (3) for payments of unlawful dividends or unlawful stock repurchases or redemptions or (4) for any transaction from which the director derived an improper personal benefit. The Registrant's certificate of incorporation provides that the Registrant's directors shall not be personally liable to the Registrant or its stockholders for monetary damages for breach of fiduciary duty as a director and that if the Delaware General Corporation Law is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of the Registrant's directors shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

Section 174 of the Delaware General Corporation Law provides, among other things, that a director who willfully or negligently approves of an unlawful payment of dividends or an unlawful stock purchase or redemption may be held liable for such actions. A director who was either absent when the unlawful actions were approved, or dissented at the time, may avoid liability by causing his or her dissent to such actions to be entered in the books containing minutes of the meetings of the board of directors at the time such action occurred or immediately after such absent director receives notice of the unlawful acts.

As permitted by the Delaware General Corporation Law, the Registrant has entered into separate indemnification agreements with each of the Registrant's directors and certain of the Registrant's officers which require the Registrant, among other things, to indemnify them against certain liabilities which may arise by reason of their status as directors, officers or certain other employees.

The Registrant maintains insurance policies under which its directors and officers are insured, within the limits and subject to the limitations of those policies, against certain expenses in connection with the defense of, and certain liabilities which might be imposed as a result of, actions, suits or proceedings to which they are parties by reason of being or having been directors or officers. The coverage provided by these policies may apply whether or not the Registrant would have the power to indemnify such person against such liability under the provisions of the Delaware General Corporation Law.

These indemnification provisions and the indemnification agreements entered into between the Registrant and the Registrant's officers and directors may be sufficiently broad to permit indemnification of the Registrant's officers and directors for liabilities (including reimbursement of expenses incurred) arising under the Securities Act.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

See Exhibit Index.

Item 9. Undertakings.

a. The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers of sales are being made, a post-effective amendment to this registration statement:

- (i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;
- (ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement.
- (iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

Provided, however, That Paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if the registration statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

- (2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- b. The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.
- c. Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement on Form S-8 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Tustin, State of California, on December 10, 2018.

AVID BIOSERVICES, INC.

By: /s/ Roger J. Lias, Ph.D.
Roger J. Lias, Ph.D.,
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints, Roger J. Lias, Ph.D. and Daniel R. Hart, and each of them, as his attorney-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments to this Registration Statement (including post-effective amendments), and any and all Registration Statements filed pursuant to Rule 462 under the Securities Act of 1933, as amended, in connection with or related to the Offering contemplated by this Registration Statement and its amendments, if any, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our said attorney to any and all amendments to said Registration Statement.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>SIGNATURE</u>	<u>TITLE</u>	<u>DATE</u>
<u>/s/ Roger J. Lias, Ph.D.</u> Roger J. Lias	President and Chief Executive Officer (Principal Executive Officer), and Director	December 10, 2018
<u>/s/ Daniel R. Hart</u> Daniel R. Hart	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	December 10, 2018
<u>/s/ Joseph Carleone, Ph.D.</u> Joseph Carleone, Ph.D.	Director	December 10, 2018
<u>/s/ Mark R. Bamforth</u> Mark R. Bamforth	Director	December 10, 2018
<u>/s/ Richard B. Hancock</u> Richard B. Hancock	Director	December 10, 2018
<u>/s/ Joel McComb</u> Joel McComb	Director	December 10, 2018
<u>/s/ Gregory P. Sargen</u> Gregory P. Sargen	Director	December 10, 2018
<u>/s/ Patrick D. Walsh</u> Patrick D. Walsh	Director	December 10, 2018

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Exhibit</u>
4.1	2018 Omnibus Incentive Plan (Incorporated by reference to Exhibit A to Registrant's Definitive Proxy Statement filed with the SEC on August 17, 2018)
4.2	Form of Stock Option Award Agreement under 2018 Omnibus Incentive Plan *
4.3	Form of Restricted Stock Unit Award Agreement under 2018 Omnibus Incentive Plan *
5.1	Opinion of Counsel *
23.1	Consent of Independent Registered Public Accounting Firm *
23.2	Consent of Counsel (included in Exhibit 5.1)
24.1	Power of Attorney (included in this Registration Statement under "Signatures")

* Filed herewith

NOTICE OF GRANT OF [INCENTIVE/NON-QUALIFIED] STOCK OPTION AWARD

AVID BIOSERVICES, INC.
2018 OMNIBUS INCENTIVE PLAN

FOR GOOD AND VALUABLE CONSIDERATION, Avid Bioservices, Inc. (the “Company”) hereby grants, pursuant to the provisions of the Company’s 2018 Omnibus Incentive Plan (the “Plan”), to the Grantee designated in this Notice of Grant of [Incentive/Non-Qualified] Stock Option Award (the “Notice”) an option to purchase the number of shares of Common Stock of the Company set forth in the Notice (the “Shares”), subject to certain restrictions as outlined below in this Notice and the additional provisions set forth in the attached Terms and Conditions of Stock Option Award (“Terms”), and together with the Notice, the “Agreement”). The terms and conditions of the Plan are incorporated by reference in their entirety into this Agreement. When used in this Agreement, the terms which are defined in the Plan shall have the meanings given to them in the Plan, as modified herein (if applicable).

Grantee: [_____]	Type of Option: [Incentive/Non-Qualified] Stock Option		
Exercise Price per Share: \$ ____	Date of Grant: _____		
Total Number of Shares Granted: _____	Expiration Date: _____		
<p>Vesting Schedule: The Stock Option will vest and become exercisable in accordance with the following schedule:</p> <table border="0"> <tr> <td style="text-align: center;"><u>Vesting Date</u></td> <td style="text-align: center;"><u>Number of Shares Vested and Exercisable</u></td> </tr> </table> <p>[Insert schedule – time based or performance based]</p> <p>Only a whole number of Shares will become vested and exercisable as of any given vesting date. If the number of Shares determined as of a vesting date is a fractional number, the number vesting will be rounded down to the nearest whole number with any fractional portion carried forward. No Shares shall become earned and vested following Grantee’s Separation from Service, except as expressly provided in the Terms below, as applicable, or as otherwise provided pursuant to the terms of the Plan. Refer to Section 15.3 of the Plan in the event of the occurrence of a Change in Control.</p> <p>IN NO EVENT MAY THIS STOCK OPTION BE EXERCISED AFTER THE EXPIRATION DATE AS PROVIDED ABOVE.</p>		<u>Vesting Date</u>	<u>Number of Shares Vested and Exercisable</u>
<u>Vesting Date</u>	<u>Number of Shares Vested and Exercisable</u>		

Grantee acknowledges and agrees that by clicking the “ACCEPT” button on the corresponding on-line grant acceptance response page, it will act as Grantee’s electronic signature to this Agreement and will constitute Grantee’s acceptance of and agreement with all of the terms and conditions of the Award, as set forth in the Agreement and the Plan.

Avid Bioservices, Inc.
/s/ _____
Daniel R. Hart
Chief Financial Officer

TERMS AND CONDITIONS OF STOCK OPTION AWARD

1. Grant of Stock Option.

(a) The Stock Option Award (the “**Award**”) granted by Avid Bioservices, Inc. (the “**Company**”) to the Grantee specified in the Notice of Grant of [**Incentive/Non-Qualified**] Stock Option Award (the “**Notice**”) to which these Terms and Conditions of Stock Option Award (the “**Terms**”) are attached, is subject to the terms and conditions of the Plan, the Notice, and these Terms. The terms and conditions of the Plan are incorporated by reference in their entirety into these Terms. Together, the Notice and these Terms constitute the “**Agreement.**” A Prospectus describing the Plan has been delivered to the Grantee. The Plan itself is available upon request. When used in this Agreement, the terms which are defined in the Plan shall have the meanings given to them in the Plan, as modified herein (if applicable).

(b) The Board has approved an award of a Stock Option to the Grantee with respect to a number of Shares of Common Stock as set forth in the Notice, conditioned upon the Grantee’s acceptance of the provisions set forth in the Notice and these Terms.

(c) If designated in the Notice as an Incentive Stock Option (“**ISO**”), this Stock Option is intended to qualify as an Incentive Stock Option as defined in Section 422 of the Code. Nevertheless, to the extent that the Stock Option fails to meet the requirements of an ISO under Section 422 of the Code, this Stock Option shall be treated as a Non-qualified Stock Option (“**NSO**”).

(d) The Company intends that this Stock Option not be considered to provide for the deferral of compensation under Section 409A of the Code and that this Agreement shall be so administered and construed. Further, the Company may modify the Plan and this Award to the extent necessary to fulfill this intent.

2. Exercise of Stock Option.

(a) Right to Exercise. This Stock Option shall be exercisable, in whole or in part, during its term in accordance with the Vesting Schedule set out in the Notice and with the applicable provisions of the Plan and this Agreement. No Shares shall be issued pursuant to the exercise of the Stock Option unless the issuance and exercise comply with applicable laws. Assuming such compliance, for income tax purposes the Shares shall be considered transferred to the Grantee on the date on which the Stock Option is exercised with respect to such Shares. Until such time as the Stock Option has been duly exercised and Shares have been delivered, the Grantee shall not be entitled to exercise any voting rights with respect to such Shares and shall not be entitled to receive dividends or other distributions with respect thereto.

(b) Method of Exercise. The Grantee may exercise the Stock Option by delivering an exercise notice in a form approved by the Company (the “**Exercise Notice**”) which shall state the election to exercise the Stock Option, the number of Shares with respect to which the Stock Option is being exercised, and such other representations and agreements as may be required by the Company. The Exercise Notice shall be accompanied by payment of the aggregate Exercise Price as to all Shares exercised, in the manner provided in Section 3 below. This Stock Option shall be deemed to be exercised upon receipt by the Company of such fully executed Exercise Notice accompanied by the aggregate Exercise Price.

3. Method of Payment. If the Grantee elects to exercise the Stock Option by submitting an Exercise Notice under Section 2(b) of this Agreement, payment of the aggregate Exercise Price shall be made by any of the following, or a combination thereof, at the election of the Grantee:

(a) cash or certified check;

(b) under the “Cashless Exercise” provision in Section 11.3 of the Plan;

(c) surrender of other shares of Stock owned by the Grantee which have a Fair Market Value on the date of surrender equal to the aggregate Exercise Price of the exercised Shares and any applicable withholding; or

(d) any other consideration that the Board deems appropriate and in compliance with applicable law.

4. Non-Transferability of Stock Option. This Stock Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of the Grantee only by the Grantee. The terms of the Plan and this Agreement shall be binding upon the executors, administrators, heirs, successors and assigns of the Grantee.
5. Term of Stock Option. This Stock Option may be exercised only within the term set out in the Notice, and may be exercised during such term only in accordance with the Plan and the terms of this Agreement.
6. Exercise Following Separation from Service.

(a) Following a Separation from Service, other than due to Grantee's death or permanent disability, any non-vested portion of the Stock Option expires immediately upon such Separation from Service and any vested portion of the Stock Option remains exercisable for three (3) months following such Separation from Service.

(b) Following a Separation from Service due to Grantee's death or permanent disability, any non-vested portion of the Stock Option expires immediately upon such Separation from Service and any vested portion of the Stock Option remains exercisable for twelve (12) months following such Separation from Service.

7. Withholding.

(a) Regardless of any action the Company takes with respect to any or all income tax, payroll tax or other tax-related withholding ("**Tax-Related Items**"), the Grantee acknowledges that the ultimate liability for all Tax-Related Items owed by the Grantee is and remains the Grantee's responsibility and that the Company (i) makes no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the Award, including the grant, vesting or exercise of the Stock Option or the subsequent sale of Shares acquired upon exercise; and (ii) does not commit to structure the terms of the grant or any aspect of the Stock Option to reduce or eliminate the Grantee's liability for Tax-Related Items.

(b) Prior to exercise of the Stock Option, the Grantee shall pay or make adequate arrangements satisfactory to the Company to satisfy all minimum withholding obligations of the Company. In this regard, the Grantee authorizes the Company to withhold all applicable minimum Tax-Related Items legally payable by the Grantee from the Grantee's wages or other cash compensation paid to the Grantee by the Company or from proceeds of the sale of the Shares. Alternatively, or in addition, to the extent permissible under applicable law, the Company may (i) sell or arrange for the sale of Shares that the Grantee acquires to meet the minimum withholding obligation for Tax-Related Items, and/or (ii) withhold Shares otherwise issuable upon exercise of the Stock Option, provided that the Company only withholds the amount of Shares necessary to satisfy the minimum withholding amount. Finally, the Grantee shall pay to the Company any amount of Tax-Related Items that the Company may be required to withhold as a result of the Grantee's participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue and deliver Shares upon exercise of the Stock Option if the Grantee fails to comply with the Grantee's obligations in connection with the Tax-Related Items as described in this Section 6.

(c) If the Grantee makes any disposition of Shares delivered pursuant to the exercise of an ISO under the circumstances described in Section 421(b) of the Code (relating to certain disqualifying dispositions) or any successor provision of the Code, the Grantee shall notify the Company of such disposition within ten days of such disposition.

8. Grantee Representations. The Grantee hereby represents to the Company that the Grantee has read and fully understands the provisions of this Agreement, the Prospectus and the Plan, and the Grantee's decision to participate in the Plan is completely voluntary. Further, the Grantee acknowledges that the Grantee is relying solely on his or her own advisors with respect to the tax consequences of this Award.
9. Regulatory Limitations on Exercises. Notwithstanding the other provisions of this Agreement, the Board shall have the sole discretion to impose such conditions, restrictions and limitations (including suspending the exercise of the Stock Option and the tolling of any applicable exercise period during such suspension) on the issuance of Stock with respect to this Stock Option unless and until the Board determines that such issuance complies with (i) any applicable registration requirements under the Securities Act or the Board has determined that an exemption therefrom is available, (ii) any applicable listing requirement of any stock exchange on which the Stock is listed, (iii) any applicable Company policy or administrative rules, and (iv) any other applicable provision of state, federal or foreign law, including foreign securities laws where applicable.

10. Miscellaneous.

(a) Notices. Any notice which either party hereto may be required or permitted to give to the other shall be in writing and may be delivered personally, by intraoffice mail, by fax, by electronic mail or other electronic means, or via a postal service, postage prepaid, to such electronic mail or postal address and directed to such person as the Company may notify the Grantee from time to time; and to the Grantee at the Grantee's electronic mail or postal address as shown on the records of the Company from time to time, or at such other electronic mail or postal address as the Grantee, by notice to the Company, may designate in writing from time to time.

(b) Waiver. 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 other or subsequent breach.

(c) Entire Agreement. This Agreement and the Plan constitute the entire agreement between the parties with respect to the subject matter hereof. Any prior agreements, commitments or negotiations concerning the Award are superseded.

(d) Binding Effect; Successors. This Agreement shall inure to the benefit of and be binding upon the parties hereto and to the extent not prohibited herein, their respective heirs, successors, assigns and representatives. Nothing in this Agreement, express or implied, is intended to confer on any person other than the parties hereto and as provided above, their respective heirs, successors, assigns and representatives any rights, remedies, obligations or liabilities.

(e) Governing Law. This Agreement shall be interpreted, construed and administered in accordance with the laws of the State of California as they apply to contracts made, delivered and performed in the State of California. Any dispute arising hereunder shall be resolved by binding arbitration before the American Arbitration Association under its Commercial Arbitration Rules before a single arbitrator. The parties will mutually determine the arbitrator from a list of arbitrators obtained from the American Arbitration Association office located in Orange County, California. If the parties are unable to agree on the arbitrator, the arbitrator will be selected by the American Arbitration Association with a preference for selecting a retired federal district judge or state superior court judge as the arbitrator.

(f) Venue. Any arbitration, legal or equitable action or any proceeding arising directly, indirectly, or otherwise in connection with, out of, related to or from the Agreement, or any provision hereof, shall exclusively be filed and adjudicated in Orange County, California and no other venue.

(g) Headings. The headings contained herein are for the sole purpose of convenience of reference, and shall not in any way limit or affect the meaning or interpretation of any of the terms or provisions of this Agreement.

(h) Conflicts: Amendment. The provisions of the Plan are incorporated in this Agreement in their entirety. In the event of any conflict between the provisions of this Agreement and the Plan, the provisions of the Plan shall control. This Agreement may be amended at any time by the Committee, provided that no amendment may, without the consent of the Grantee, materially impair the Grantee's rights with respect to the Award. The Committee shall have full authority and discretion, subject only to the terms of the Plan, to decide all matters relating to the administration or interpretation of the Plan, the Award, and the Agreement, and all such action by the Committee shall be final, conclusive, and binding upon the Company and the Grantee.

(i) No Right to Continued Employment. Nothing in this Agreement shall confer upon the Grantee any right to continue in the employ or service of the Company or affect the right of the Company to terminate the Grantee's employment or service at any time.

(j) Further Assurances. The Grantee agrees, upon demand of the Company or the Committee, to do all acts and execute, deliver and perform all additional documents, instruments and agreements which may be reasonably required by the Company or the Committee, as the case may be, to implement the provisions and purposes of this Agreement and the Plan.

(k) Recovery of Compensation. In accordance with Section 3.3 of the Plan, the Award is subject to the requirements of (i) Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (regarding recovery of erroneously awarded compensation) and any implementing rules and regulations thereunder, (ii) any policies adopted by the Company to implement such requirements, and (iii) the Company's Clawback Policy, as in effect from time to time, all to the extent determined by the Committee to be applicable to the Grantee.

(l) Severability. The provisions of this Agreement are severable and if any one or more provisions are determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable.

(m) Restrictive Covenants. If the Grantee is subject to any employment-related covenants (including covenants regarding non-competition, non-solicitation of customers/employees and preservation of confidential information) under any agreement with the Company or any Subsidiary, the vesting and receipt of benefits under this Award is specifically conditioned on the Grantee's compliance with such covenants. To the extent allowed by and consistent with applicable law and any applicable limitations period, if it is determined at any time that the Grantee has materially breached any such covenants, the Company will be entitled to (i) cause any unvested portion of the Award to be immediately canceled without any payment of consideration by the Company and (ii) recover from the Grantee in its sole discretion some or all of the shares of Stock (or proceeds received by the Grantee from such shares of Stock) paid to the Grantee pursuant to this Agreement. The Grantee recognizes that if the Grantee breaches any such covenants, the losses to the Company and/or its Subsidiaries may amount to the full value of any shares of Stock paid to the Grantee pursuant to this Agreement.

**NOTICE OF GRANT OF RESTRICTED STOCK UNIT AWARD
(TIME-VESTING)**

**AVID BIOSERVICES, INC.
2018 OMNIBUS INCENTIVE PLAN**

FOR GOOD AND VALUABLE CONSIDERATION, Avid Bioservices, Inc. (the “**Company**”) hereby grants this Restricted Stock Unit Award (the “**Award**”) of the number of Restricted Stock Units set forth in this Notice of Grant of Restricted Stock Unit Award (the “**Notice**”) to the Grantee designated in this Notice, pursuant to the provisions of the Company’s 2018 Omnibus Incentive Plan (the “**Plan**”) and subject to certain restrictions as outlined below in this Notice and the additional provisions set forth in the attached Terms and Conditions of Restricted Stock Units Award (the “**Terms**”). Together, this Notice and the attached Terms constitute the “**Agreement**.” The terms and conditions of the Plan are incorporated by reference in their entirety into this Agreement. When used in this Agreement, the terms which are defined in the Plan shall have the meanings given to them in the Plan, as modified herein (if applicable).

Grantee: [_____]		
Date of Grant: [_____]		
Total Number of Restricted Stock Units Granted: [_____]		
<p>Vesting Schedule: The Award will vest in accordance with the following schedule:</p> <table style="width:100%; border: none;"> <tr> <td style="width:50%; text-align: center;"><u>Vesting Date</u></td> <td style="width:50%; text-align: center;"><u>Number of Restricted Stock Units Vested</u></td> </tr> </table> <p>[Insert schedule – time based]</p> <p>Only a whole number of Restricted Stock Units will become vested as of any given vesting date. If the number of Restricted Stock Units determined as of a vesting date is a fractional number, the number vesting will be rounded down to the nearest whole number with any fractional portion carried forward. No Restricted Stock Units shall become earned and vested following Grantee’s Separation from Service, except as expressly provided in the Terms below, as applicable, or as otherwise provided pursuant to the terms of the Plan. Refer to Section 15.3 of the Plan in the event of the occurrence of a Change in Control.</p>	<u>Vesting Date</u>	<u>Number of Restricted Stock Units Vested</u>
<u>Vesting Date</u>	<u>Number of Restricted Stock Units Vested</u>	

Grantee acknowledges and agrees that by clicking the “ACCEPT” button on the corresponding on-line grant acceptance response page, it will act as Grantee’s electronic signature to this Agreement and will constitute Grantee’s acceptance of and agreement with all of the terms and conditions of the Award, as set forth in the Agreement and the Plan.

Avid Bioservices, Inc.

 /s/ _____
 Daniel R. Hart
 Chief Financial Officer

TERMS AND CONDITIONS OF RESTRICTED STOCK UNIT AWARD

1. Grant of Units.

(a) The Restricted Stock Unit Award (the “**Award**”) granted by Avid Bioservices, Inc. (the “**Company**”) to the Grantee specified in the Notice of Grant of Restricted Stock Unit Award (the “**Notice**”) to which these Terms and Conditions of Restricted Stock Unit Award (the “**Terms**”) are attached, is subject to the terms and conditions of the Plan, the Notice, and these Terms. The terms and conditions of the Plan are incorporated by reference in their entirety into these Terms. Together, the Notice and these Terms constitute the “**Agreement.**” A Prospectus describing the Plan has been delivered to the Grantee. The Plan itself is available upon request. When used in this Agreement, the terms which are defined in the Plan shall have the meanings given to them in the Plan, as modified herein (if applicable).

(b) As of the Grant Date set forth in the Notice, the Company grants to the Grantee the number of Restricted Stock Units (“**Units**”) set forth in the Notice. Each Unit represents the right to receive one share of Common Stock at a future date after the Unit has become earned and vested, subject to the terms and conditions of this Agreement.

(c) The Units covered by this Award shall become earned and vested in accordance with the schedule set forth in the Notice. Each earned and vested Unit shall be settled on the date(s) specified in the Notice by issuance of one share of Common Stock on or as soon as administratively practicable (but no more than 75 days) after the applicable vesting and/or settlement date specified in the Notice, subject to the requirements of (i) Section 4 (Responsibility for Taxes), Section 6 (Regulatory Restrictions on the Shares Issued Upon Settlement), and Section 7(k) (Recovery of Compensation) of this Agreement and (ii) Section 17.9 of the Plan (regarding a potential six-month delay in settlement for awards to certain Grantees to the extent determined by the Company to be necessary to comply with Section 409A).

(d) Units constitute an unfunded and unsecured obligation of the Company. The Grantee shall not have any rights of a stockholder of the Company with respect to the shares of Common Stock underlying the Units unless and until the Units become earned and vested and are settled by the issuance of shares of Common Stock. Upon issuance of shares of Common Stock in connection with the settlement of vested Units, the Grantee shall be the record owner of the shares of Common Stock unless and until such shares are sold or otherwise disposed of, and as record owner shall be entitled to all rights of a stockholder of the Company (including voting rights).

(e) The Grantee may designate a beneficiary to receive payment in connection with the Units in the event of the Grantee’s death in accordance with the Company’s beneficiary designation procedures, as in effect from time to time. If the Grantee does not designate a beneficiary, or if the Grantee’s designated beneficiary does not survive the Grantee, then the Grantee’s beneficiary will be the Grantee’s estate.

(f) The Units shall not entitle the Grantee to receive any dividend equivalents with respect to any cash dividend that is otherwise paid with respect to shares of the Common Stock.

2. Restrictions. Subject to any exceptions set forth in this Agreement, until such time as the Units become earned and vested and are settled in Common Stock in accordance with Section 1, the Units or the rights relating thereto may not be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by the Grantee. Any attempt to assign, alienate, pledge, attach, sell or otherwise transfer or encumber the Units or the rights relating thereto shall be wholly ineffective and, if any such attempt is made, the Units will be forfeited by the Grantee and all of the Grantee’s rights to such Units shall immediately terminate without any payment of consideration by the Company.

3. Cancellation of Rights. If any portion of the Units fail to become earned and vested (for example, because the Grantee fails to satisfy the vesting conditions specified in the Notice prior to a Separation from Service), then such Units shall be immediately forfeited as of the date of such failure and all of the Grantee’s rights to such Units shall immediately terminate without any payment of consideration by the Company.

4. Responsibility for Taxes.

(a) Regardless of any action the Company takes with respect to any or all income tax, payroll tax or other tax-related withholding (“**Tax-Related Items**”), the Grantee acknowledges that the ultimate liability for all Tax-Related Items owed by the Grantee is and remains the Grantee’s responsibility and that the Company (i) makes no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the Award, including the grant or vesting of the Units or the subsequent sale of Common Stock acquired upon vesting; and (ii) does not commit to structure the terms of the grant or any aspect of the Award to reduce or eliminate the Grantee’s liability for Tax-Related Items.

(b) Prior to vesting of the Units, the Grantee shall pay or make adequate arrangements satisfactory to the Company to satisfy all minimum withholding obligations of the Company. In this regard, the Grantee authorizes the Company in its discretion, to the extent permissible under applicable law, to (i) sell or arrange for the sale of Common Stock that the Grantee acquires to meet the minimum withholding obligation for Tax-Related Items, and/or (ii) withhold in shares of Common Stock, provided that the Company only withholds the amount of Common Stock necessary to satisfy the minimum withholding amount. If the foregoing does not result in sufficient proceeds to meet the minimum withholding obligation for Tax-Related Items, the Grantee shall pay to the Company any amount of Tax-Related Items that the Company may be required to withhold as a result of the Grantee’s participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue and deliver Common Stock in payment of any earned and vested Units if the Grantee fails to comply with the Grantee’s obligations in connection with the Tax-Related Items as described in this Section 4.

5. Grantee Representations. The Grantee hereby represents to the Company that the Grantee has read and fully understands the provisions of this Agreement, the Prospectus and the Plan, and the Grantee’s decision to participate in the Plan is completely voluntary. Further, the Grantee acknowledges that the Grantee is relying solely on his or her own advisors with respect to the tax consequences of this Award.

6. Regulatory Restrictions on the Shares Issued Upon Settlement. Notwithstanding the other provisions of this Agreement, the Committee shall have the sole discretion to impose such conditions, restrictions and limitations on the issuance of Common Stock with respect to this Award unless and until the Committee determines that such issuance complies with (i) any applicable registration requirements under the Securities Act or the Committee has determined that an exemption therefrom is available, (ii) any applicable listing requirement of any stock exchange on which the Common Stock is listed, (iii) any applicable Company policy or administrative rules, and (iv) any other applicable provision of state, federal or foreign law, including foreign securities laws where applicable.

7. Miscellaneous.

(a) Notices. Any notice which either party hereto may be required or permitted to give to the other shall be in writing and may be delivered personally, by intraoffice mail, by fax, by electronic mail or other electronic means, or via a postal service, postage prepaid, to such electronic mail or postal address and directed to such person as the Company may notify the Grantee from time to time; and to the Grantee at the Grantee’s electronic mail or postal address as shown on the records of the Company from time to time, or at such other electronic mail or postal address as the Grantee, by notice to the Company, may designate in writing from time to time.

(b) Waiver. 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 other or subsequent breach.

(c) Entire Agreement. This Agreement and the Plan constitute the entire agreement between the parties with respect to the subject matter hereof. Any prior agreements, commitments or negotiations concerning the Award are superseded.

(d) Binding Effect; Successors. This Agreement shall inure to the benefit of and be binding upon the parties hereto and to the extent not prohibited herein, their respective heirs, successors, assigns and representatives. Nothing in this Agreement, express or implied, is intended to confer on any person other than the parties hereto and as provided above, their respective heirs, successors, assigns and representatives any rights, remedies, obligations or liabilities.

(e) Governing Law. This Agreement shall be interpreted, construed and administered in accordance with the laws of the State of California as they apply to contracts made, delivered and performed in the State of California. Any dispute arising hereunder shall be resolved by binding arbitration before the American Arbitration Association under its Commercial Arbitration Rules before a single arbitrator. The parties will mutually determine the arbitrator from a list of arbitrators obtained from the American Arbitration Association office located in Orange County, California. If the parties are unable to agree on the arbitrator, the arbitrator will be selected by the American Arbitration Association with a preference for selecting a retired federal district judge or state superior court judge as the arbitrator.

(f) Venue. Any arbitration, legal or equitable action or any proceeding arising directly, indirectly, or otherwise in connection with, out of, related to or from the Agreement, or any provision hereof, shall exclusively be filed and adjudicated in Orange County, California and no other venue.

(g) Headings. The headings contained herein are for the sole purpose of convenience of reference, and shall not in any way limit or affect the meaning or interpretation of any of the terms or provisions of this Agreement.

(h) Conflicts: Amendment. The provisions of the Plan are incorporated in this Agreement in their entirety. In the event of any conflict between the provisions of this Agreement and the Plan, the provisions of the Plan shall control. This Agreement may be amended at any time by the Committee, provided that no amendment may, without the consent of the Grantee, materially impair the Grantee's rights with respect to the Award. The Committee shall have full authority and discretion, subject only to the terms of the Plan, to decide all matters relating to the administration or interpretation of the Plan, the Award, and the Agreement, and all such action by the Committee shall be final, conclusive, and binding upon the Company and the Grantee.

(i) No Right to Continued Employment. Nothing in this Agreement shall confer upon the Grantee any right to continue in the employ or service of the Company or affect the right of the Company to terminate the Grantee's employment or service at any time.

(j) Further Assurances. The Grantee agrees, upon demand of the Company or the Committee, to do all acts and execute, deliver and perform all additional documents, instruments and agreements which may be reasonably required by the Company or the Committee, as the case may be, to implement the provisions and purposes of this Agreement and the Plan.

(k) Recovery of Compensation. In accordance with Section 3.3 of the Plan, the Award is subject to the requirements of (i) Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (regarding recovery of erroneously awarded compensation) and any implementing rules and regulations thereunder, (ii) any policies adopted by the Company to implement such requirements, and (iii) the Company's Clawback Policy, as in effect from time to time, all to the extent determined by the Committee to be applicable to the Grantee.

(l) Severability. The provisions of this Agreement are severable and if any one or more provisions are determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable.

(m) Restrictive Covenants. If the Grantee is subject to any employment-related covenants (including covenants regarding non-competition, non-solicitation of customers/employees and preservation of confidential information) under any agreement with the Company or any Subsidiary, the vesting and receipt of benefits under this Award is specifically conditioned on the Grantee's compliance with such covenants. To the extent allowed by and consistent with applicable law and any applicable limitations period, if it is determined at any time that the Grantee has materially breached any such covenants, the Company will be entitled to (i) cause any unvested portion of the Award to be immediately canceled without any payment of consideration by the Company and (ii) recover from the Grantee in its sole discretion some or all of the shares of Stock (or proceeds received by the Grantee from such shares of Stock) paid to the Grantee pursuant to this Agreement. The Grantee recognizes that if the Grantee breaches any such covenants, the losses to the Company and/or its Subsidiaries may amount to the full value of any shares of Stock paid to the Grantee pursuant to this Agreement.



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December 10, 2018

Avid Bioservices, Inc.
2642 Michelle Drive, Suite 200
Tustin, California 92780

Ladies and Gentlemen:

We have acted as counsel to Avid Bioservices, Inc., a Delaware corporation (the “Company”), in connection with the preparation of a Registration Statement on Form S-8 (the “Registration Statement”), filed by the Company with the Securities and Exchange Commission (the “Commission”) pursuant to the Securities Act of 1933, as amended (the “Securities Act”), registering 7,251,924 shares (the “Shares”) of the Company’s common stock, par value \$0.001 per share (the “Common Stock”) under the 2018 Omnibus Incentive Plan (the “Plan”). This opinion letter is being furnished to you in accordance with the requirements of Item 601(b)(5) of Regulation S-K.

You have requested our opinion as to the matters set forth below in connection with the Registration Statement. For purposes of rendering our opinion, we have examined: (i) the Registration Statement, (ii) the Certificate of Incorporation of the Company, as amended, (iii) the Amended and Restated Bylaws of the Company, (iv) certain resolutions of the Board of Directors of the Company (the “Board”) and such other records of corporate actions of the Company relating to the Registration Statement and the authorization for issuance and sale of the Shares, and matters in connection therewith, (v) the Plan and the forms of award agreements approved by the Board for use in each of the Plan, and (vi) a certificate of an officer of the Company, dated as of the date hereof (the “Fact Certificate”). We have also made such other investigation as we have deemed appropriate. We have examined and relied upon certificates of public officials and, as to certain matters of fact that are material to our opinion, we have also relied on the Fact Certificate.

In rendering our opinion, we have made the assumptions that are customary in opinion letters of this kind, including that: (i) each document submitted to us is accurate and complete, (ii) each document submitted to us as an original is authentic, (iii) each document submitted to us as a copy conforms to an authentic original, (iv) all signatures on original documents are genuine, (v) all documents were duly executed and delivered where due execution and delivery are prerequisites to the effectiveness thereof, and (vi) the Company is and shall remain at all times a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware. We have further assumed the legal capacity of natural persons and we have assumed that each party to the documents we have examined or relied on has the legal capacity or authority and has satisfied all legal requirements that are applicable to that party to the extent necessary to make such documents enforceable against that party. We have not verified any of those assumptions.

In rendering our opinion below, we also have assumed that: (i) the Company will have sufficiently authorized and unissued shares of Common Stock at the time of each issuance of a Share under each Plan, (ii) the Shares will be evidenced by appropriate certificates, duly executed and delivered, or the Board will adopt a resolution providing that all Shares shall be uncertificated in accordance with Section 158 of the Delaware General Corporation Law (the “DGCL”) prior to their issuance, (iii) the issuance of each Share will be duly noted in the Company’s stock ledger upon issuance, and (iv) the Company will receive consideration for each Share at least equal to the par value of each share of Common Stock, in the amount required by the Plans and approved by the Board pursuant to a resolution authorizing the issuance of such Share adopted at a meeting or by unanimous consent to action without meeting in accordance with the DGCL.

The opinion expressed below is limited to the DGCL.

Based upon and subject to the foregoing, it is our opinion that the Shares have been duly authorized for issuance by the Company and, when, and if, issued and sold in accordance with the terms of the Plans and any underlying award agreements, will be validly issued, fully paid and nonassessable. This opinion is expressed as of the date hereof and we disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable laws.

We hereby consent to the filing of this opinion letter as an exhibit to the Registration Statement. In giving our consent, we do not hereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations thereunder.

Yours truly,

/s/ K&L Gates LLP

K&L Gates LLP

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (Form S-8) to be filed on or about December 10, 2018 pertaining to the 2018 Omnibus Incentive Plan of Avid Bioservices, Inc. of our reports dated July 16, 2018, with respect to the consolidated financial statements of Avid Bioservices, Inc. and the effectiveness of internal control over financial reporting of Avid Bioservices, Inc., included in its Annual Report (Form 10-K) for the year ended April 30, 2018, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Irvine, California
December 10, 2018