

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-K**

(Mark One)

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

For the fiscal year ended December 31, 2019

OR

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

Commission File Number 001-37620

**KURA ONCOLOGY, INC.**

(Exact name of Registrant as specified in its Charter)

Delaware  
(State or other jurisdiction of incorporation or organization)  
3033 Science Park Road, Suite 220, San Diego, CA  
(Address of principal executive offices)

61-1547851  
(I.R.S. Employer Identification No.)  
92121  
(Zip Code)

Registrant's telephone number, including area code: (858) 500-8800

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.0001 per share	KURA	The Nasdaq Global Select Market

Securities registered pursuant to 12(g) of the Act: None

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

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

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

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

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

Large accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
Accelerated filer	<input type="checkbox"/>	Emerging growth company	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>		

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

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

The aggregate market value of the voting and non-voting of common equity held by non-affiliates of the registrant was approximately \$822.0 million as of June 28, 2019 (the last trading day of the registrant's most recently completed second quarter) based on the closing price of \$19.69 as reported on the Nasdaq Global Select Market on such date. Shares of the registrant's common stock held by executive officers, directors, and their affiliates have been excluded from this calculation. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

The number of outstanding shares of the registrant's common stock as of February 20, 2020 was 45,428,045 shares.

**DOCUMENTS INCORPORATED BY REFERENCE**

Portions of the registrant's definitive proxy statement to be filed with the Securities and Exchange Commission, or SEC, subsequent to the date hereof pursuant to Regulation 14A in connection with the registrant's 2020 Annual Meeting of Stockholders, are incorporated by reference into Part III of this Annual Report on Form 10-K. Such proxy statement will be filed with the SEC not later than 120 days after the conclusion of the registrant's fiscal year ended December 31, 2019.

**KURA ONCOLOGY, INC.**  
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**Forward-Looking Statements**

This Annual Report on Form 10-K, or Annual Report, may include forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, that relate to future events or our future financial performance and involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance or achievements to differ materially from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements. Words such as, but not limited to, “believe,” “expect,” “anticipate,” “estimate,” “intend,” “may,” “plan,” “potential,” “predict,” “project,” “targets,” “likely,” “will,” “would,” “could,” “should,” “continue,” and similar expressions or phrases, or the negative of those expressions or phrases, are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. These statements reflect our beliefs and opinions on the relevant subject and are based upon information available to us as of the date of this Annual Report. Although we believe that we have a reasonable basis for each forward-looking statement contained in this Annual Report, we caution you that these statements are based on information that may be limited or incomplete, our projections of the future that are subject to known and unknown risks and uncertainties and other factors that may cause our actual results, level of activity, performance or achievements expressed or implied by these forward-looking statements, to differ. These statements are inherently uncertain and you are cautioned not to unduly rely upon these statements. The sections in this Annual Report entitled “Business,” “Risk Factors,” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” as well as other sections in this Annual Report, discuss some of the factors that could contribute to these differences. These forward-looking statements include, among other things, statements about:

- the initiation, cost, timing, progress and results of our research and development activities, clinical trials and preclinical studies;
- the early stage of products under development;
- the timing of and our ability to obtain and maintain regulatory approval of our existing product candidates, any product candidates that we may develop, any clinical holds established by any relevant regulatory bodies and any related restrictions, limitations, and/or warnings in the label of any approved product candidates;
- our plans to research, develop and commercialize our future product candidates;
- our ability to attract collaborators with development, regulatory and commercialization expertise;
- our ability to obtain and maintain intellectual property protection for our product candidates;
- our ability to successfully commercialize our product candidates;
- the size and growth of the markets for our product candidates and our ability to serve those markets;
- the rate and degree of market acceptance of any future products;
- the success of competing drugs that are or become available;
- government regulation;
- regulatory developments in the United States and other countries;
- the performance of our third-party suppliers and manufacturers and our ability to obtain alternative sources of raw materials;
- our ability to obtain additional financing;
- our use of cash, cash equivalents, investments and other resources;
- the accuracy of our estimates regarding expenses, future revenues, capital requirements and the need for additional financing; and
- our ability to attract and retain key management, scientific or clinical personnel.

We may not actually achieve the plans, intentions or expectations disclosed in our forward-looking statements, and you should not place undue reliance on our forward-looking statements. Actual results or events could differ materially from the plans, intentions and expectations disclosed in the forward-looking statements we make. We have included important cautionary statements in this Annual Report, particularly in the “Risk Factors” section, that we believe could cause actual results or events to differ materially from the forward-looking statements that we make. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures or investments we may make.

You should read this Annual Report and the documents that we reference in this Annual Report, completely and with the understanding that our actual future results may be materially different from what we expect. The forward-looking statements contained in this Annual Report are made as of the date of this Annual Report, and we do not assume, and specifically disclaim, any obligation to update any forward-looking statements, whether as a result of new information, future events or otherwise.

## **Item 1. Business.**

### **Overview**

We are a clinical-stage biopharmaceutical company committed to realizing the promise of precision medicines for the treatment of cancer. Our pipeline consists of small molecule product candidates that target cancer signaling pathways where there is a strong scientific and clinical rationale to improve outcomes, and we intend to pair them with molecular or cellular diagnostics to identify those patients most likely to respond to treatment. We plan to advance our product candidates through a combination of internal development and strategic partnerships while maintaining significant development and commercial rights.

Our lead product candidate, tipifarnib, is a potent, selective and orally bioavailable inhibitor of farnesyl transferase. Tipifarnib was previously studied in more than 5,000 cancer patients and demonstrated compelling and durable anti-cancer activity in certain patients with a manageable side effect profile. We are currently evaluating tipifarnib in multiple solid tumor and hematologic indications.

Our most advanced solid tumor indication for tipifarnib is in patients with head and neck squamous cell carcinoma, or HNSCC, that carry mutations in the HRAS gene. In September 2017, we reported that our ongoing proof-of-concept Phase 2 clinical trial of tipifarnib in patients with HRAS mutant relapsed or refractory HNSCC, or RUN-HN, achieved its primary efficacy endpoint. In October 2018, we reported updated data from RUN-HN showing a significant association between tumor HRAS mutant allele frequency and clinical benefit from tipifarnib. Based upon these observations, we introduced a minimum HRAS mutant variant allele frequency as an entry criterion in the RUN-HN trial. Following feedback from the U.S. Food and Drug Administration, or the FDA, and other regulatory authorities, we initiated a global, multi-center, open-label, non-comparative registration-directed clinical trial of tipifarnib in HRAS mutant HNSCC in November 2018. The clinical trial has two cohorts: a treatment cohort, which we call AIM-HN, and a non-interventional screening and outcomes cohort, which we call SEQ-HN. AIM-HN is designed to enroll at least 59 evaluable HNSCC patients with high HRAS mutant variant allele frequency who have received prior platinum-based therapy. We project AIM-HN to be fully enrolled in the first quarter of 2021. In October 2019, we reported updated data from the ongoing RUN-HN trial that we believe confirms the association between HRAS mutant variant allele frequency and anti-tumor activity, and we believe further supports the design of our amended AIM-HN registration-directed trial in HRAS mutant HNSCC. On December 16, 2019, we reported that the FDA granted Fast Track Designation to tipifarnib for the treatment of patients with HRAS mutant HNSCC after progression on platinum therapy.

In September 2019, we reported that an investigator-sponsored Phase 2 clinical trial of tipifarnib in patients with relapsed or refractory urothelial carcinomas that carry HRAS mutations met its primary efficacy endpoint. The trial is being conducted at the Samsung Medical Center in Seoul, South Korea. Further analyses of the trial are ongoing, and data are expected to be presented at a future medical meeting. Another investigator-sponsored clinical trial of tipifarnib is being conducted by Grupo Español de Cáncer de Pulmón, or GECP, a Spanish lung cancer consortium, for the treatment of patients with lung squamous cell carcinomas harboring HRAS mutations.

In addition to its activity against HRAS mutant solid tumors, we have data that supports that tipifarnib inhibits the production of CXCL12, a chemokine that binds to the receptors CXCR4 and CXCR7 and regulates a number of key cellular processes associated with cancer including proliferation, survival, migration, invasion, and metastasis. Targeting the CXCR4–CXCL12 axis has the potential of affecting CXCR4-expressing primary tumor cells, modulating the immune response, or synergizing with other anticancer therapies. As an example of using tipifarnib to affect CXCR4-expressing primary tumor cells, we have been evaluating the potential utility of tipifarnib in various lymphomas and leukemias.

CXCL12 has been reported to promote the progression of lymphomas and leukemias carrying the CXCR4 receptor. We had previously identified an association between CXCL12 expression levels and clinical benefit in patients with relapsed or refractory peripheral T-cell lymphomas, or PTCL, treated with tipifarnib. Accordingly, we designed a Phase 2 clinical trial to test the hypothesis prospectively that treatment with tipifarnib would decrease levels of CXCL12 and drive clinical benefit in patients with relapsed or refractory PTCL.

In June 2019, we reported updated interim data from this trial. These data showed a significant association between CXCL12 expression and clinical benefit, as well as clinical proof-of-concept in two pre-specified expansion cohorts: (1) patients with angioimmunoblastic T-cell lymphoma, or AITL, an aggressive form of T-cell lymphoma often characterized by high levels of CXCL12 expression and (2) patients with PTCL who lack a single nucleotide variation in the 3'-untranslated region of the CXCL12 gene. In addition, we have shown in ancillary studies that an elevated level of CXCL12 expression is a negative prognostic factor for standard-of-care PTCL therapy. Taken together, we believe these data represent the first prospective clinical validation of using tipifarnib to affect CXCR4-expressing primary tumor T-cells and enrich for clinical activity of tipifarnib in PTCL.

Given the high level of clinical activity observed among AITL patients, we continued to enroll patients to acquire more experience regarding safety and tolerability in this population. At the American Society of Hematology, or ASH, Annual meeting in Orlando, Florida on December 8, 2019, we presented further interim results from this ongoing trial of tipifarnib showing robust and durable activity as a monotherapy in advanced AITL, including enhanced activity in AITL patients that carry variants in the killer-cell immunoglobulin-like receptor, or KIR, 3DL2 gene.

Based on these results and FDA feedback from an end-of-Phase 2 meeting, we plan to initiate a registration-directed trial of tipifarnib in relapsed or refractory advanced T-cell lymphomas with a follicular helper T-cell phenotype, including AITL. This single-arm trial will target enrollment of 128 patients who are relapsed or refractory to at least one prior systemic cytotoxic therapy. The trial has two independent primary objectives – objective response rate, or ORR, in all patients enrolled and ORR in patients who carry KIR mutations. KIR mutational status will be determined retrospectively. Each of the two primary objectives has a null hypothesis of 9%, and each can be met independently. We expect to commence this trial in the second half of 2020.

The CXCL12-CXCR4 axis is also believed to be a key mediator of the interaction between cancerous myeloid cells and the bone marrow microenvironment, and these interactions are postulated to be important for resistance to chemotherapy and disease relapse in myeloid neoplasias. Given the potential for tipifarnib to modulate CXCR4-expressing primary tumor cells, we are also conducting an ongoing Phase 2 clinical trial to evaluate the potential for tipifarnib to drive clinical benefit in patients with relapsed or refractory acute myeloid leukemia, or AML, and chronic myelomonocytic leukemia, or CMML. We anticipate having additional data from the CMML cohort in 2020.

In addition, in June 2019, we reported a retrospective analysis of a subset of patients from a previously conducted Phase 2 clinical trial of tipifarnib in patients with relapsed or refractory lymphomas that identified pre-treatment tumor CXCL12 expression as a potential biomarker of clinical benefit in patients with diffuse large B-cell lymphoma, or DLBCL, and mycosis fungoides, the most common form of cutaneous T-cell lymphoma, or CTCL. The chemokine receptor CXCR4 and its ligand CXCL12 are believed to be implicated in the retention of B-cell precursors and B-cell homing to lymph nodes, and therefore may play an important role in B-cell development. In addition, elevated expression of CXCR4-CXCL12 axis has been reported to be associated with the pathogenesis of mycosis fungoides. Given the importance of the CXCL12-CXCR4 pathway in a number of hematologic malignancies as well as our clinical data and our retrospective analysis of prior clinical studies conducted with tipifarnib, we believe our findings support additional potential clinical development for tipifarnib in these indications.

We believe tipifarnib has the potential to synergize with other anticancer therapies through its modulation of the CXCL12-CXCR4 pathway. In January 2019, we reported the identification of a potential association between CXCL12 expression and clinical benefit from tipifarnib in patients with pancreatic cancer. We continue to do additional preclinical work to validate tipifarnib in a CXCL12-high subpopulation of pancreatic cancer patients. For example, we have generated preclinical data showing that tipifarnib can block the production of CXCL12 produced by activated pancreatic stellate cells. In addition, we have observed the potential for synergy between tipifarnib and chemotherapy in preclinical models of pancreatic cancer. We believe these preclinical data as well as our retrospective analysis of the prior clinical studies support the potential use of tipifarnib in a broader set of hematologic and solid tumor indications, including pancreatic cancer, in which the CXCL12 pathway plays a role in tumor initiation and progression, and we anticipate initiating a Phase 2 proof-of-concept clinical trial in pancreatic cancer in the second half of 2020.

Our second product candidate is KO-947, a potent and selective small molecule inhibitor of extracellular signal related kinase, or ERK, which we are advancing as a potential treatment for patients with tumors that have dysregulated activity due to mutations or other mechanisms in the mitogen-activated protein kinase, or MAPK, pathway. Our preclinical data suggest that KO-947 has anti-tumor activity in KRAS- or BRAF-mutant adenocarcinomas as well as certain subsets of squamous cell carcinomas. We have been evaluating KO-947 in a Phase 1 dose-escalation trial and believe we have reached a recommended Phase 2 dose of KO-947 as a monotherapy. We intend to initiate an evaluation cohort to evaluate the safety, pharmacokinetics, pharmacodynamics and clinical activity of KO-947 in patients with HNSCC and esophageal squamous cell carcinomas, or ESCC, bearing chromosome 11q13 amplifications. Our goal is to generate sufficient clinical data to allow us to make a decision on potential paths forward for KO-947.

Our third product candidate is KO-539, a potent and selective small molecule inhibitor of the menin-mixed lineage leukemia, or menin-MLL, protein-protein interaction. We have generated preclinical data that support the potential anti-tumor activity of KO-539 in genetically defined subsets of acute leukemia, including those with rearrangements or partial tandem duplications in the MLL gene as well as those with oncogenic driver mutations in genes such as NPM1. We received orphan drug designation for KO-539 for the treatment of AML from the FDA in July 2019. We initiated our Phase 1/2 clinical trial of KO-539 in relapsed or refractory AML in September 2019. We are seeking to achieve a recommended Phase 2 dose for KO-539 with the potential to enrich in NPM1-mutant AML and MLL-rearranged genetically defined subgroups by the end of 2020.

Unless the context requires otherwise, references in this Annual Report to “we,” “us” and “our” refer to Kura Oncology, Inc.

## **Our Strategy**

Our strategy is to discover, acquire, develop and commercialize innovative anti-cancer agents in oncology indications with significant unmet medical need and attractive commercial potential. The key components of our strategy include the following:

- Focus on developing novel, small molecule product candidates for the treatment of cancer;
- Identify molecular, genetic or other tumor-related characteristics to identify patients more likely to benefit from our product candidates;
- Leverage clinical and pathology trends towards comprehensive tumor profiling and the use of companion diagnostics;
- Prioritize development of tipifarnib in clinical indications of high unmet need where improved outcomes are associated with specific biomarkers;
- Advance our programs through a combination of internal development and strategic partnerships;
- Maintain significant development and commercial rights to our product candidates; and
- Build a sustainable product pipeline.

## **Precision Medicines in Cancer Treatment**

Advancements in cancer genetics and new molecular diagnostic tools are helping define why some patients respond to a specific therapy while other patients receive little to no clinical benefit. This new era in cancer drug discovery and development offers the potential for innovative treatments that are safer and more effective for patients with specific cancers. We aim to improve patient outcomes and contribute to the reduction in healthcare costs by matching targeted therapeutics to the patients who will derive the most benefit. We are developing a pipeline of small molecule product candidates designed to inhibit mutated or abnormally functioning cellular pathways that drive cancer growth and intend to pair them with molecular diagnostics to identify those patients with tumors most likely to respond to treatment. This approach to treatment is known as precision medicine.

A pioneering example of a precision medicine in cancer was the development of small molecule inhibitors against epidermal growth factor receptor, or EGFR, in patients with advanced lung cancer. Patients with EGFR mutations treated with EGFR inhibitors have a response rate in the 65% range, as opposed to a response rate of approximately 10% in unselected lung patients. Erlotinib (Tarceva®) was approved in the United States as a first-line treatment for patients with

non-small cell lung cancer, or NSCLC, characterized by EGFR mutations. Other examples of approved agents developed using precision medicine approaches include ALK, BCR-ABL, BRAF and TRK inhibitors.

Precision medicine has several advantages over traditional drug development. We believe evidence-based selection of patients who are more likely to respond to a targeted therapy based on tumor biology provides the potential for: higher translatability from preclinical to clinical studies; increased overall response rates, requiring fewer enrolled patients for clinical development; and expedited clinical development in areas of high unmet need. We believe the precision medicine approach has the potential for more efficient drug development with reduced risks, costs and timelines. However, achieving success through a precision medicine approach is predicated on a thorough understanding of tumor biology and the mechanism of action of the product candidate. To develop this understanding, we have conducted extensive translational research on each of our programs.

### **Our Approach to Development of Precision Medicines in Oncology**

Translational research is the practice of synthesizing our knowledge of basic research, preclinical and clinical data to develop a “bench-to-bedside” understanding of the potential of our product candidates, and it is the principal methodology we utilize to guide our precision medicine approach. We evaluate our product candidates through both *in vitro* and *in vivo* experiments to evaluate their potential as therapeutics using a number of tools, including patient-derived xenograft, or PDX, models. PDX models mostly retain the principal histologic and genetic characteristics of their donor tumor and have been shown in many instances to be predictive of clinical outcomes and are increasingly being used for preclinical drug evaluation, biomarker identification, biologic studies and personalized medicine strategies. We evaluate our product candidates in preclinical PDX studies seeking to corroborate clinical data and to identify and prioritize potential clinical indications.

Because we often target molecular and/or genetic alterations that are detectable, companion diagnostic tests can be developed to identify these alterations. Once we have identified a target, we will initially use existing diagnostic tools, such as next-generation sequencing, or NGS, or RNA expression profiling, to identify patient subsets that we believe will derive increased benefit from our product candidates. As we advance our product candidates clinically and determine the most important screening criteria, we intend to develop companion diagnostics as appropriate, with the help of technology partners, to seek to identify patients, and if our clinical development programs are successful, to support the potential registration and marketing of our product candidates.

Our clinical development strategy employs a disciplined approach designed to identify response signals early in development and reduce development risks. Based upon the data from our preclinical studies as well as clinical data, we seek to evaluate our product candidates in well-defined patient populations and believe this gives us a higher likelihood of demonstrating a clinical benefit. This approach is intended to allow for early insight into the therapeutic potential of a product candidate and the possibility for rapid clinical development and expedited regulatory strategies.

We are employing some or all of the steps above across our various programs as we advance our pipeline of targeted therapies. We believe the advantages of such an approach are the potential for higher translatability from preclinical to clinical studies, the ability to leverage clinical and pathology trends towards comprehensive tumor profiling and the potential for expedited clinical development.

### **Clinical Programs and Pipeline**

#### ***Tipifarnib – An Oral Farnesyl Transferase Inhibitor***

##### *Overview*

Tipifarnib is a member of a class of product candidates called farnesyl transferase inhibitors, or FTIs. We in-licensed tipifarnib from Janssen Pharmaceutica NV, or Janssen, an affiliate of Johnson & Johnson, in December 2014. Previously, tipifarnib was studied in more than 5,000 oncology patients in more than 70 clinical trials and was observed to be generally well tolerated with a manageable side effect profile as a single agent. Although tipifarnib has a well-established safety profile and has demonstrated compelling and durable anti-cancer activity in certain patients, its activity has not been sufficient in any prior clinical trial to support marketing approval by the FDA. However, clinical and preclinical data suggest that, in certain selected patient populations, tipifarnib has the potential to provide significant benefit to cancer patients with limited treatment options. We have worldwide rights to tipifarnib in all indications other than virology.

### *Protein Farnesylation and Tipifarnib*

Tipifarnib is a potent and selective inhibitor of protein farnesylation. Certain cellular proteins must associate with the intracellular membrane to function. One of the mechanisms by which proteins are associated with the inner cell membrane is farnesylation, which modifies the protein by attaching a farnesyl group. Another, related mechanism of attachment of proteins to the membrane is protein geranylgeranylation, which is attachment of a geranylgeranyl group to the protein. Protein farnesylation and protein geranylgeranylation, collectively called protein prenylation, cause intracellular proteins to become anchored to the inside of the cell membrane due to the hydrophobic nature of the farnesyl and geranylgeranyl groups.

The enzyme that catalyzes the attachment of the farnesyl groups to proteins is called farnesyl transferase. Small molecule inhibitors of the farnesyl transferase enzyme have been discovered, and several inhibitors including tipifarnib have been evaluated in human clinical trials. The small molecule inhibitors are commonly referred to as FTIs. Many proteins involved in cellular signaling undergo prenylation because they must be associated with other proteins at the inner cellular membrane of the tumor cell to function properly. Treatment of tumors with FTIs results in the reversal of several hallmarks of cancer, including mitotic arrest, induction of apoptosis, growth inhibition, tissue invasion, sustained angiogenesis and tumor growth, as well as induction of tumor regression in animal models.

Among the hundreds of proteins estimated to be prenylated, some are either exclusively farnesylated or exclusively geranylgeranylated; some are both farnesylated and geranylgeranylated, and others are naturally farnesylated but become geranylgeranylated, when the farnesyl transferase enzyme is inhibited. HRAS is an example of a protein that is exclusively farnesylated while KRAS and NRAS are two proteins that are naturally farnesylated but may become geranylgeranylated upon treatment with FTIs.

### *Solid Tumors with HRAS Mutations*

Retrovirus-associated DNA sequences, or RAS, are a family of membrane-associated proteins that are involved in regulating cell division in response to growth factor stimulation. HRAS is a member of the RAS family, which includes the other proto-oncogenes: KRAS and NRAS. Collectively, the three RAS genes constitute one of the most frequently mutated families of oncogenes in human cancers. Although HRAS mutations are less common overall relative to KRAS and NRAS mutations in human cancers, they have a higher prevalence in cancers of the upper digestive tract, skin, thyroid and urinary bladder.

The HRAS protein is involved in regulating cell division in response to growth factor stimulation. Growth factors act by binding cell surface receptors that span the cell's plasma membrane. Once activated, receptors stimulate signal transduction events in the cytoplasm, a process by which proteins and second messengers relay signals from outside the cell to the cell nucleus and instruct the cell to grow or divide. HRAS is localized in the plasma membrane, and it is an early player in many signal transduction pathways. HRAS acts as a molecular on/off switch – once HRAS is turned “on” it recruits and activates proteins necessary for the propagation of the receptor's signal. In certain tumors, mutations in HRAS or its upstream regulators cause HRAS to be permanently “on,” resulting in persistent activation of downstream growth and proliferation signals that drive tumor cell growth. FTIs work to prevent the aberrant growth and proliferation of cells that are dependent on these signaling pathways by inhibiting protein farnesylation and subsequent membrane localization of HRAS, thereby switching HRAS “off.” HRAS membrane localization is solely dependent on protein farnesylation, and therefore we believe that tipifarnib has the potential for the treatment of HRAS mutant solid tumors.

HNSCC is one of a number of different types of cancer that arises from squamous cells. Squamous cells are found in the outer layer of skin and in the mucous membranes, which are the moist tissues that line body cavities such as the airways and intestines. HNSCC develops in the mucous membranes of the mouth, nose, and throat and is classified by its location. HNSCC is caused by a variety of factors that can alter the DNA in cells. The strongest risk factors for developing this form of cancer are tobacco use, including smoking or using chewing tobacco, and heavy alcohol consumption. In addition, infection with certain strains of human papillomavirus, or HPV, is linked to the development of HNSCC.

HNSCC is a disease of high unmet need. Response rates for the three approved second-line agents, cetuximab (Erbix<sup>®</sup>), nivolumab (Opdivo<sup>®</sup>) and pembrolizumab (Keytruda<sup>®</sup>) are in the range of 13-16% in unselected populations, with a median progression-free survival, or PFS, of approximately two months and a median overall survival of fewer than eight months. Data in the literature along with our own clinical data suggest response rates in patients with HRAS mutations may be even lower.

Other types of cancer that can result from squamous cells include vulvar, penile, cutaneous and lung squamous cell carcinoma. Our preclinical and clinical data suggest that, among solid tumors with HRAS mutations, squamous cell tumors are sensitive tumors to treatment with tipifarnib, and treatment with tipifarnib can, in some patients, produce durable responses.

#### *Clinical Development of Tipifarnib in HRAS Mutant Solid Tumors*

*Proof-of-Concept Trial in HNSCC and other SCCs.* We initiated a proof-of-concept Phase 2 clinical trial in May 2015 to test the hypothesis whether tipifarnib could be used as a treatment for advanced tumors with HRAS mutations. The initiation of this clinical trial was based on our preclinical data, which demonstrated that tipifarnib inhibits HRAS mutant cell proliferation and HRAS tumor growth in mouse models. The clinical trial was originally designed to enroll two cohorts of 18 patients each, with a primary endpoint of ORR and tumor response assessments conducted according to Response Evaluation Criteria in Solid Tumors version 1.1, or RECIST 1.1, criteria with confirmation of response required.

Cohort 1 enrolled patients with malignant thyroid tumors with HRAS mutations, independently of thyroid histology. Ten evaluable patients were enrolled in Stage 1 of Cohort 1. Although evidence of prolonged disease stabilization was observed in several patients, we saw no objective responses within the first stage of the thyroid cohort and the cohort was closed to further enrollment. Cohort 2 was initially designed to enroll any patient with a non-hematological HRAS mutant tumor other than thyroid cancer who met the eligibility criteria. In March 2017, we presented preliminary data from this trial at the 15th International Congress on Targeted Anticancer Therapies, including data from a cohort of three patients with HRAS mutant HNSCC treated with tipifarnib, two of whom achieved confirmed partial responses, or PRs. Based upon these data, we amended the clinical trial protocol to focus enrollment in Cohort 2 entirely on patients with HRAS mutant HNSCC. In addition, a number of patients with HRAS mutant salivary gland cancer were treated with tipifarnib during the conduct of our Phase 2 clinical trial, several of whom experienced tumor shrinkage and prolonged disease stabilization.

In September 2017, we reported that our proof-of-concept clinical trial of tipifarnib in patients with HRAS mutant HNSCC achieved its primary efficacy endpoint with four confirmed, partial responses among the first six evaluable HNSCC patients enrolled in the trial. Following achievement of the primary efficacy endpoint in patients with HRAS mutant HNSCC, we further amended the clinical trial protocol to add a third cohort with patients having HRAS mutant SCCs other than HNSCC.

In October 2018, we reported updated data from our proof-of-concept clinical trial of tipifarnib in patients with HRAS mutant HNSCC and preliminary data in our cohort of other HRAS mutant SCCs at the European Society for Medical Oncology Congress. An analysis of available tumor biopsy samples showed a significant association between tumor HRAS mutant allele frequency, or the measurement of mutated HRAS encoding DNA in a patient's tumor compared to wild type HRAS DNA, and clinical benefit in patients treated with tipifarnib. Of the 14 HNSCC or other SCC patients with a tumor HRAS mutant allele frequency greater than 20%, seven achieved PRs, one achieved an unconfirmed PR and two experienced disease stabilization greater than six months. No meaningful clinical benefit was observed in the seven patients with an allele frequency less than 20%. Data from The Cancer Genome Atlas indicate that approximately 5% of HNSCC patients have an HRAS mutant allele frequency greater than 20%.

Following the data update in October 2018, we modified our ongoing Phase 2 proof-of-concept clinical trial of tipifarnib in patients with HRAS mutant SCCs to introduce a minimum tumor HRAS mutant allele frequency as an entry criterion and use 600 mg orally twice daily as the starting dose. At the AACR-NCI-EORTC International Conference on Molecular Targets and Cancer Therapeutics in Boston, Massachusetts on October 29, 2019, we presented updated data on this trial which showed that 10 of the 18 efficacy-evaluable patients achieved a confirmed PR for an ORR of 56%. In addition, eight patients experienced disease stabilization, including two who achieved an unconfirmed PR. The median PFS of the 18 evaluable patients treated with tipifarnib was 6.1 months, compared to 2.8 months on their last prior therapy, including 8.3 months among patients who achieved a PR on tipifarnib and 4.5 months for those with stable disease. Patients had a median of two prior lines of therapy (range 0-6), with no responses observed on their last prior therapy. Treatment-emergent adverse events in the trial were consistent with the known safety profile of tipifarnib. The most frequently observed adverse events were hematological-related and were managed with best supportive care and/or dose interruption. Notably, a total of five evaluable HNSCC patients started at the 600 mg dose in the trial, all of whom achieved an objective clinical response.

*Registration-Directed Trial in HRAS Mutant HNSCC.* Based on the positive results observed in our proof-of-concept clinical trial, and following feedback from the FDA and other regulatory authorities, we initiated a global, multi-center, open-label, registration-directed clinical trial in recurrent or metastatic patients with HRAS mutant HNSCC in November 2018. The trial has two cohorts: A non-interventional screening and outcomes cohort, which we call SEQ-HN, and a treatment cohort, which we call AIM-HN.

SEQ-HN is designed as a case-control trial to determine the treatment outcomes of patients with recurrent or metastatic HNSCC with HRAS mutations. The primary objective of SEQ-HN is to determine the ORR of first-line therapy in patients with HNSCC that carry HRAS mutations compared to those without a known HRAS mutation. In addition, this screening and outcomes cohort is expected to enable the identification of patients with HRAS mutations for potential enrollment into AIM-HN.

AIM-HN is designed to enroll at least 59 patients with HRAS mutant HNSCC who have received prior platinum-based therapy. Based on observations from our proof-of-concept clinical trial, patients in AIM-HN must have a tumor HRAS mutant allele frequency greater than or equal to 35%, or greater than or equal to 20% if the patient's serum albumin level is greater than or equal to 3.5 g/dL. Patients enrolled in the trial will receive a starting dose of 600 mg of oral tipifarnib, twice daily, on days 1-7 and 15-21 of 28-day treatment cycles. The trial's primary endpoint is ORR, as determined using RECIST 1.1 criteria and confirmed by independent radiological review. AIM-HN has approximately 80% power to detect a difference between a null hypothesis of 15%, which is the point estimate of the ORR of second-line therapy for recurrent and metastatic disease, and 30%, an ORR considered of interest. Based on feedback from the FDA, we believe that AIM-HN, if positive, may be adequate to support a new drug application, or NDA, seeking accelerated approval. We project this clinical trial to be fully enrolled in the first quarter of 2021.

*Investigator-Sponsored Trials in HRAS Mutant Solid Tumors.* In addition to our company-sponsored clinical trials in HRAS mutant solid tumors, an investigator-sponsored clinical trial of tipifarnib for the treatment HRAS mutant lung squamous cell carcinoma is ongoing. This proof-of-concept clinical trial is being conducted by GECP and is designed to enroll at least 18 patients. The primary endpoint of this clinical trial is ORR, and secondary endpoints include PFS, duration of response and safety.

An investigator-sponsored clinical trial of tipifarnib is also being conducted for the treatment of advanced, previously treated urothelial carcinomas that carry HRAS mutations. This proof-of-concept clinical trial is sponsored by the Samsung Medical Center in Seoul, South Korea and is designed to enroll at least 18 patients. The primary endpoint of this clinical trial is PFS at six months, and secondary endpoints include ORR, duration of response and safety. In September 2019, we reported that this trial met its primary efficacy endpoint. We anticipate that data will be presented at an upcoming medical meeting.

*Companion Diagnostics for Tipifarnib in HRAS Mutant Solid Tumors.* Patients are currently being enrolled in the ongoing Phase 2 proof-of-concept HRAS mutant tumor clinical trial and our AIM-HN clinical trial based either upon information on the patients' tumor HRAS mutation status obtained by the clinical sites from NGS panels used by the site, or upon information obtained from third-party laboratories who conduct genetic screening on patient samples for the clinical sites. Working with our collaborators, we have obtained an investigational device exemption, or IDE, for use of a qualitative polymerase chain reaction, or qPCR, -based assay as a companion diagnostic test for our AIM-HN clinical trial. We expect that regulatory approval of tipifarnib as a treatment for patients with HRAS mutant tumors will require FDA approval of an HRAS assay in the form of a companion diagnostic test that has been validated for accuracy, precision and reproducibility.

*Registration Strategy for Tipifarnib in HRAS Mutant Solid Tumors.* Our immediate strategy for tipifarnib in HRAS mutant solid tumors is to generate a data package to support an application for marketing approval in HRAS mutant HNSCC. We will also seek to broaden tipifarnib's potential use in other HRAS mutant solid tumors, including HRAS mutant SCCs other than HNSCC, as we believe this may represent a near-term opportunity to expand the use of tipifarnib into a broader set of HRAS mutant cancers. Longer term, our development strategy for tipifarnib is to advance toward earlier lines of therapy and, ultimately, to treat patients with HRAS mutant SCCs in the continuum of systemic treatment settings. We believe that it will be necessary to evaluate tipifarnib in combination with other agents, including chemotherapy, immune therapies and targeted therapies, to advance to earlier lines of therapy, and we continue to investigate various combinations in preclinical models of disease.

## *Clinical Development of Tipifarnib as a CXCL12-CXCR4 Pathway Inhibitor*

Over the past several years, we have discovered that tipifarnib inhibits the production of CXCL12, a chemokine that is believed to play a central role in human cancer. Chemokines are a family of small peptides that function as chemoattractants. They mediate cellular functions including activation, survival, growth, differentiation, and trafficking and exert their action by binding to surface receptors on the target cells. CXCL12 is a chemokine expressed on multiple cell types, including endothelial and stromal cells, in different organs. Its receptor, CXCR4, has been documented to be expressed on most hematopoietic cell types, including T-cells, B-cells and all other cell types. Additionally, the expression of CXCR4 has been found on multiple solid tumors as well as hematological malignancies. Evidence suggests that the CXCL12-CXCR4 pathway plays a role in cancer cell homing and metastasis, and thus represents a potential target for cancer therapy. CXCL12 binds the CXCR4 and CXCR7 receptors, activating divergent signals on multiple pathways. The CXCR4–CXCL12 axis regulates the hematopoietic stem cell niche. In addition, recent evidence demonstrates that inhibiting CXCR4 signaling restores sensitivity to CTLA-4 and PD-1 checkpoint inhibitors. Targeting the CXCR4–CXCL12 axis offers the possibility of affecting CXCR4-expressing primary tumor cells, modulating the immune response, or synergizing with other targeted anticancer therapies.

In June 2017, we reported identification of the CXCL12-CXCR4 pathway as a potential therapeutic target of tipifarnib through a retrospective analysis of our Phase 2 proof-of-concept trial in PTCL patients. Among its multiple functions, CXCL12 has been shown to be essential for homing of myeloid cells to the bone marrow and lymphoid cells to lymph nodes and other organs. Based on our initial observations of the role of CXCL12 as a potential biomarker of clinical activity in PTCL, we began to investigate the role of the CXCL12 pathway in other indications.

### *Peripheral T-Cell Lymphoma/Angioimmunoblastic T-Cell Lymphoma*

Lymphoma is the most common blood cancer. T-cell lymphomas comprise up to 20% of all aggressive Non-Hodgkin's lymphoma, or NHL, and consist of many different subtypes of fast-growing lymphomas. Outcomes for these patients are poor with 5-year survival of approximately 30%. Despite several approvals over the past decade, the treatment of relapsed and/or refractory PTCL remains a significant unmet medical need. Three of the more recent launches, pralatrexate (Folotyn®), romidepsin (Istodax®) and belinostat (Beleodaq®), were approved based on single-arm clinical trials of fewer than 130 patients, each with response rates in the range of 25-27% and only two to three months of median PFS in unselected populations. In addition, none of the approved agents has demonstrated a survival benefit. The National Comprehensive Cancer Network guidelines currently recommend clinical trials for relapsed and/or refractory patients.

In December 2018, we reported preliminary data at ASH from the two expansion cohorts in our Phase 2 clinical trial of tipifarnib in patients with relapsed or refractory PTCL. The data showed a significant association between CXCL12 expression and clinical benefit, as well as achievement of clinical proof-of-concept in the AITL expansion cohort. According to the trial protocol, an expansion cohort is considered positive when four or more responses are observed. The trial also identified what is believed to be a particularly responsive subset within AITL and non-AITL patients. Specifically, patients with a high ratio of expression of CXCL12 to its receptor CXCR4 experienced an ORR of 50% (five of 10) and a clinical benefit rate of 90% (nine of 10 with either complete response, partial response or stable disease) with tipifarnib. Patients in this Phase 2 clinical trial had a median of three prior lines of therapy (range 1-7). High expression of CXCL12 was observed in approximately 40% of the PTCL patients. The high CXCL12/CXCR4 expression ratio had 90% sensitivity and 93% specificity to identify PTCL patients likely to benefit from tipifarnib.

In addition to the Phase 2 clinical data, the results from two ancillary, non-clinical studies were also reported at ASH. In the first, the expression of CXCL12 and CXCR4 was investigated using tumor bank samples of PTCL patients treated with standard-of-care agents. Worse prognosis was observed in PTCL patients with high CXCL12/CXCR4 expression ratio, suggesting that CXCL12 is a negative prognostic factor for standard PTCL therapy. In the second trial, the effect of the incubation of stroma cells with tipifarnib on CXCL12 secretion was investigated in a mouse model of bone marrow culture. Tipifarnib reduced secretion of the CXCL12 chemokine from the stromal cells, providing a potential mechanism of action for the observed clinical activity.

In June 2019, at the European Hematology Association Annual Congress in Amsterdam, we reported that the primary efficacy endpoint was achieved in each of the expansion cohorts in the Phase 2 clinical trial of tipifarnib in patients with relapsed or refractory PTCL. In addition, NGS of 16 AITL patients revealed a high rate of mutation/variation (50%) of the killer cell immunoglobulin-like receptors, including KIR3DL2. Four of the eight patients with KIR3DL2 mutations achieved a complete response, or CR, two achieved a PR and two achieved stable disease. Furthermore, high KIR3DL2 mutant variant allele frequency KIR3DL2 was predictive of CR to tipifarnib in AITL. Tumors with KIR3DL2 mutations expressed low levels of CXCL5 and its receptor CXCR1 and CXCR2, a potential mechanism of resistance to tipifarnib.

On December 8, 2019, at the ASH Annual meeting in Orlando, Florida, we presented an update on patients with AITL from our ongoing Phase 2 clinical trial of tipifarnib in patients with relapsed or refractory PTCL. As of the November 11, 2019 data cutoff date, a total of 26 patients with relapsed or refractory AITL were enrolled in all stages of the trial. Among the 20 patients evaluable for efficacy, five achieved a CR and five achieved a PR, for an ORR of 50% on an evaluable basis and 38% on an intent-to-treat basis. In addition, three patients experienced disease stabilization. Patients had a median of three prior regimens (range 1-7). NGS of 19 available patient biopsies showed that 10 (53%) carried KIR3DL2 variants, of whom four achieved a CR and three achieved a PR, for a CR rate of 40% and an ORR of 70%. This compares to a CR rate of 11% and an ORR of 22% among the nine AITL patients with KIR3DL2 wild type.

Tipifarnib was generally well-tolerated in this Phase 2 clinical trial, with adverse events consistent with its known safety profile. The most frequently observed treatment-related adverse events (grade  $\geq$  3) were hematology-related, including thrombocytopenia, neutropenia, leukopenia, anemia, febrile neutropenia and lymphopenia. Based on these results and FDA feedback from an end-of-Phase 2 meeting, we plan to initiate a multi-center, single-arm registration-directed clinical trial of 128 patients with advanced T-cell lymphomas with a follicular helper T-cell phenotype, including AITL, who are relapsed or refractory to at least one prior systemic cytotoxic therapy. The trial has two independent primary objectives – ORR in all patients enrolled and ORR in patients who carry KIR mutations. KIR mutational status is to be determined retrospectively. Each of the two primary objectives has a null hypothesis of 9%, and each can be met independently. We expect to commence this trial in the second half of 2020.

#### *Other Hematologic Malignancies*

The CXCL12-CXCR4 axis is a key mediator of the interaction between cancerous myeloid cells and the bone marrow microenvironment, and these interactions are postulated to be important for resistance to chemotherapy and disease relapse in myeloid neoplasias. Given the potential for tipifarnib to modulate CXCR4-expressing primary tumor cells, we believe tipifarnib may have potential to provide clinical benefit to patients with myeloid diseases such as AML and CMML as well as other lymphomas such as B-cell lymphomas, such as DLBCL, and T-cell lymphomas beyond advanced T-cell lymphomas with a follicular helper T-cell phenotype, such as PTCL, CTCL and mycosis fungoides.

We are currently evaluating tipifarnib in an ongoing Phase 2 clinical trial in CMML. CMML is a disorder of bone marrow stem cells in which an increase in white blood cells, or monocytosis, is a defining feature. The clinical presentation of CMML varies from predominantly myelodysplastic, an ineffective production of blood cells, to predominantly myeloproliferative, an overproduction of blood cells.

In December 2017, we reported preliminary results from our Phase 2 clinical trial of tipifarnib in CMML at ASH. The primary objective of the trial was achieved with three objective responses in nine evaluable patients with KRAS or NRAS wild-type CMML, for an overall response rate of 33%. Although the signal observed in RAS wild-type patients is encouraging, our discovery of potential CXCL12 pathway biomarkers has shifted our focus in CMML to the evaluation of other potential biomarkers of activity for tipifarnib in CMML, including activation of the CXCL12 pathway.

Our analyses of data from our ongoing clinical trial in CMML, as well as data from prior clinical trials sponsored by Janssen and others in AML and MDS, identified activation of the CXCL12 pathway, as measured by the ratio of CXCR4/CXCR2 gene expression and bone marrow homing of myeloid cells, as a potential biomarker of tipifarnib activity in patients with AML in addition to CMML. As such, we amended our Phase 2 clinical trial in patients with CMML to include prospectively cohorts of relapsed and/or refractory MDS/myeloproliferative neoplasia, or MPN, including CMML and AML patients with elevated levels of CXCL12 pathway biomarkers. Our initial focus in this trial is on the CMML cohort, and we anticipate data from the CMML cohort will be presented in 2020.

CXCL12 is produced by the bone marrow microenvironment, binds and activates its cognate receptor CXCR4 on leukemic cells, facilitates leukemia cell trafficking and homing in the bone marrow microenvironment, and keeps leukemic cells in close contact with the stromal cells and extracellular matrix that constitutively generate growth-promoting and anti-apoptotic signals. A high level of CXCR4 expression on AML blasts is known to be associated with poor prognosis. Recent preclinical and clinical studies have revealed the safety and potential clinical utility of targeting the CXCL12-CXCR4 axis in AML with different classes of drugs, including small molecules, peptides, and monoclonal antibodies. Consistent with the hypothesis that tipifarnib is modulating the CXCL12-CXCR4 pathway, our analysis of gene expression from bone marrow samples in 27 previously untreated poor-risk and elderly AML patients who were treated with tipifarnib in a prior Cancer Therapy Evaluation Program, or CTEP 20, Phase 2 clinical trial indicated a potential association between high CXCL12 expression and clinical activity in these patients.

Additional opportunities for future development of tipifarnib in other potential CXCL12-expressing indications may include diffuse large B-cell lymphoma, Hodgkin's lymphoma and mycosis fungoides, a form of cutaneous T-cell lymphoma. Responses were observed in each of these indications in a National Cancer Institute-sponsored Phase 2 clinical trial of tipifarnib in unselected patients with other relapsed or refractory hematologic malignancies.

### *Solid Tumors*

Elevated CXCL12 expression is known to be a poor prognosis factor in patients with certain solid tumors, including pancreatic, lung and esophageal-gastric cancers. In the specific context of pancreatic cancer, we believe tipifarnib has the potential to synergize with other anticancer therapies through its modulation of the CXCL12-CXCR4 pathway. We continue to do additional preclinical work to validate tipifarnib in a CXCL12-high subpopulation of pancreatic cancer patients. For example, we have generated preclinical data showing that tipifarnib can block the production of CXCL12 produced by activated pancreatic stellate cells. In addition, we have observed the potential for synergy between tipifarnib and chemotherapy in preclinical models of pancreatic cancer.

To investigate the potential for association between CXCL12 expression and clinical benefit in pancreatic cancer patients, we conducted a retrospective analysis of study INT-11, a randomized, placebo-controlled Phase 3 clinical trial of gemcitabine plus tipifarnib compared with gemcitabine plus placebo in patients with advanced pancreatic cancer conducted by Janssen. In January 2019, we presented new findings at the 2019 Gastrointestinal Cancers Symposium identifying a potential association between CXCL12 expression and clinical benefit in patients with pancreatic cancer treated with tipifarnib.

The currently reported five-year survival rate for pancreatic cancer is approximately 10%, and there is an urgent need to identify new molecular mechanisms to drive anti-tumor activity and improve survival. We believe our preclinical data as well as our retrospective analysis of the INT-11 Phase 3 study support the potential for clinical benefit of tipifarnib in pancreatic cancer, in which the CXCL12 pathway plays a role in tumor initiation and progression.

Analyzing data from The Cancer Genome Atlas, or TCGA, we also found an association between high CXCL12 expression and pancreatic tumors with low KRAS mutant allele frequency ( $\leq 5\%$ , representing approximately 30% of pancreatic cancer patients). This observation may lead to the use of KRAS mutant allele frequency as a tool which may help identify patients with tumors overexpressing CXCL12 and more likely to respond to tipifarnib therapy. We believe these findings support the development of tipifarnib in pancreatic cancer and we anticipate initiating a Phase 2 proof-of-concept clinical trial in the second half of 2020.

*Registration Strategy for Tipifarnib Using CXCL12 Biomarkers.* The objective of our Phase 2 clinical trials of tipifarnib in CXCL12-driven indications was to confirm the clinical activity of tipifarnib, validate biomarker hypotheses and optimize dose and schedule for each disease to inform whether to proceed to registration-enabling studies. For each disease indication, we evaluated a number of criteria in determining whether to advance tipifarnib. These criteria included: biomarker validation, evidence of durable, clinical benefit, potential for rapid clinical development, potential to move into earlier lines of therapy, the potential for patent and regulatory exclusivity and the commercial potential. Based on the results of our Phase 2 clinical trial of tipifarnib in relapsed or refractory AITL and the high unmet need for these patients, we are now preparing to initiate a registration-directed trial of tipifarnib in relapsed or refractory T-cell lymphomas with a follicular helper T-cell phenotype, including AITL. We believe the feedback from our end-of-Phase 2 meeting with the FDA indicates that the trial, as designed, could support an NDA seeking accelerated approval for tipifarnib this indication.

### ***KO-947 – A Potent Inhibitor of ERK1/2***

We are advancing KO-947, a small molecule inhibitor of ERK, as a potential treatment for patients with tumors that have dysregulated activity due to mutations or other mechanisms in the MAPK pathway, including lung cancers, colorectal cancers and pancreatic cancers. We dosed the first patient in our Phase 1 clinical trial of KO-947 in April 2017. We acquired KO-947 from Araxes Pharma LLC, or Araxes, a private biopharmaceutical company.

KO-947, demonstrates potent inhibition of the ERK kinase and high selectivity relative to a panel of approximately 400 kinases. KO-947 also demonstrates prolonged inhibition of the MAPK pathway *in vivo*. Following a single dose *in vivo*, KO-947 demonstrated a near complete inhibition of MAPK pathway signaling for more than 72 hours. The prolonged inhibition of the pathway supports the potential for intermittent dosing schedules.

KO-947 has been evaluated in a panel of more than 200 different PDX models comprising 20 different clinical indications, utilizing intermittent dosing, to identify and prioritize potential lead clinical indications. Preclinical data presented at the American Association for Cancer Research Annual Meeting, or AACR, in April 2017 showed that KO-947 demonstrated robust and durable activity, including tumor regressions, in lung, colorectal and pancreatic tumors harboring KRAS and BRAF mutations and in HNSCC and ESCC lacking mutations in the MAPK pathway. In each of these subsets of tumors characterized by mutation or dysregulation of the MAPK pathway, KO-947 demonstrated response rates of greater than 50%. Through our preclinical studies, we have identified potential development opportunities including KRAS and BRAF mutant cancers and squamous cell carcinomas. In addition, we have identified potential biomarkers to enable patient selection strategies for clinical development.

In April 2018, we presented preclinical data at AACR, including the identification of 11q13 amplification as a potential biomarker of activity for KO-947 in squamous cell carcinomas. Amplification of chromosomal region 11q13 is a common genetic alteration in squamous cell carcinomas, comprising approximately 20% of HNSCC and approximately 50% of ESCC.

We have been evaluating KO-947 in a Phase 1 dose-escalation trial. Recently, we observed a dose limiting serious adverse event in a patient enrolled in the trial and we voluntarily paused enrollment of new patients while we assessed the safety and potential clinical activity of KO-947. We also met with the FDA to discuss the safety observation and the FDA placed the KO-947 Phase 1 clinical trial on partial clinical hold.

We believe we have identified a recommended Phase 2 dose with additional safety monitoring of KO-947 as a monotherapy and we are working to lift the partial clinical hold and initiate an expansion cohort to evaluate the safety, pharmacokinetics, pharmacodynamics and clinical activity of KO-947 in patients with HNSCC and ESCC bearing chromosome 11q13 amplifications. Our goal is to generate sufficient clinical data to make a data-driven decision on potential paths forward for KO-947.

### ***KO-539 – A Selective Inhibitor of the Menin-MLL Interaction***

We are developing an orally bioavailable small molecule inhibitor of the menin-MLL interaction for the treatment of genetically defined subsets of acute leukemias, including AML and acute lymphoblastic leukemia, or ALL. The menin-MLL program was licensed from the Regents of The University of Michigan, or the University of Michigan.

MLL-rearranged, or MLL-r, leukemias, are characterized by chromosomal translocations of the MLL gene that are primarily found in patients with AML and ALL and affect both children and adults. These translocations form oncogenes encoding MLL fusion proteins, which play a causative role in the onset, development and progression of MLL-r leukemias. MLL fusion proteins drive the up-regulation of expression of small set of target genes involved in the malignant transformation of blood cells, however, the fusion protein is critically dependent on binding the oncogenic co-factor menin to function. This implies that the menin-MLL interaction represents a valuable target for molecular therapy and supports the development of inhibitors of the menin-MLL protein-protein interaction.

The target genes of the MLL fusion proteins are also found to be overexpressed in a broader subset of AMLs characterized by mutations in NPM1, DNMT3A, IDH1, IDH2 and a different mutation in the MLL gene, known as a MLL-partial tandem duplication, or MLL-PTD. These mutations also appear to be dependent on the interaction between menin and MLL, suggesting that the menin-MLL complex is a central node in epigenetic dysregulation driven by distinct oncogenic driver mutations known to be important in AML and other hematologic malignancies.

In preclinical studies, KO-539 has demonstrated potent and selective inhibition of the proliferation of MLL-r leukemia cell lines. In November 2017, we reported preclinical data at the AACR-NCI-EORTC International Conference on Molecular Targets and Cancer Therapeutics showing robust and durable efficacy in multiple *in vivo* models of AML characterized by MLL-rearrangements or mutations in NPM1, DNMT3A, IDH1 and IDH2. We have further demonstrated that the inhibition of the menin-MLL interaction results in the down-regulation of MLL fusion target genes and an up-regulation of markers of differentiation.

In September 2019, we initiated a Phase 1/2 clinical trial of KO-539 in patients with relapsed or refractory AML to investigate the safety and tolerability of KO-539 in humans, determine a recommended Phase 2 dose, characterize pharmacokinetics of KO-539 and assess any early evidence of antitumor activity. We anticipate reaching a recommended Phase 2 dose with the potential to enrich in NPM1-mutant AML and MLL-rearranged genetically defined subgroups in 2020.

## License and Asset Purchase Agreements

### *Janssen Pharmaceutica NV*

In December 2014, we entered into a license agreement with Janssen, which was amended in June 2016, which grants us exclusive global rights to develop and commercialize tipifarnib in all indications other than virology and includes the right to grant sublicenses. We are obligated under the license agreement to use commercially reasonable efforts to develop and commercialize tipifarnib and, with the exception of the transfer to us without cost of Janssen's existing inventory of tipifarnib material, we are responsible for all future development and commercialization costs for tipifarnib. Under the license agreement, Janssen had a first right to negotiate for an exclusive license back from us to develop and commercialize tipifarnib on terms to be negotiated in good faith, which Janssen could exercise during the 60-day period following completion of a Phase 2 clinical trial of tipifarnib in HRAS mutant patients in oncology and delivery by us to Janssen of a complete data package from such clinical trial. In June 2018, Janssen declined to exercise this first right to negotiate.

Under the terms of the license agreement, in January 2015 we issued a convertible promissory note in the principal amount of \$1.0 million to Johnson & Johnson Innovation—JJDC, Inc., which automatically converted into shares of common stock in our March 2015 private placement. When and if commercial sales of tipifarnib begin, we are obligated to pay Janssen tiered royalties of low teens percentages of our net sales, depending on the amount of our net sales, with standard provisions for royalty offsets in the event of generic competition or compulsory licenses, on a product-by-product and country-by-country basis until the later of the expiration of the last to expire valid claim of the licensed patents covering the licensed product in the field in such country, the expiration of any regulatory exclusivity with respect to such product in such country, and ten years from our first commercial sale. We are also required to make regulatory milestone payments to Janssen of up to \$25.0 million in the aggregate, if specified regulatory approvals are achieved for the first indication and additional payments for each subsequent indication if specified regulatory approvals are achieved. In addition, we are required to make sales milestone payments of up to \$50.0 million in the aggregate if specified sales thresholds are surpassed. If we grant sublicenses under the license from Janssen, we are required to pay to Janssen a percentage of any upfront, lump-sum or milestone payments received from our sublicensee, subject to certain exclusions for regulatory milestone payments due under the license agreement.

The license agreement with Janssen will remain in effect until the expiration of all of our royalty and sublicense revenue obligations to Janssen, determined on a product-by-product and country-by-country basis, unless we elect to terminate the license agreement earlier. If we fail to meet our obligations under the license agreement and are unable to cure such failure within specified time periods, Janssen can terminate the license agreement, resulting in a loss of our licensed rights to tipifarnib.

### *Araxes Pharma LLC*

In December 2014, we entered into an asset purchase agreement with Araxes, which was amended and restated in February 2015, under which we purchased all of Araxes' patent rights in its ERK inhibitor program, including KO-947 and additional backup compounds, and related intellectual property. When and if commercial sales of a product candidate covered by the purchased patent rights begin, we are obligated to pay Araxes tiered royalties of low single digit percentages of our net sales, depending on the amount of our net sales with standard provisions for royalty offsets. We are also required to make development and regulatory milestone payments to Araxes of up to \$9.7 million in the aggregate, of which \$0.3 million has already been paid, if specified development events and regulatory approvals are achieved. Under the terms of the asset purchase agreement, in December 2014 we issued a convertible promissory note in the principal amount of \$0.5 million to Araxes, which automatically converted into shares of common stock in our March 2015 private placement.

### *The University of Michigan*

In December 2014, we entered into a license agreement with the University of Michigan, which was amended in March 2015, July 2015, September 2016, February 2017, May 2017 and August 2017, which grants us exclusive worldwide rights under certain patent rights to compounds in our menin-MLL program. Under this license agreement, we paid the University of Michigan an upfront nonrefundable license fee and are obligated to pay the University of Michigan annual license maintenance fees. We are also required to make development and regulatory milestone payments to the University of Michigan of up to \$3.4 million in the aggregate if specified development and regulatory events are achieved for the first indication and additional payments for each subsequent indication. If we grant sublicenses under the license from the University of Michigan, we are required to pay the University of Michigan a percentage of certain amounts received from the sublicenses. When and if commercial sales of products covered by the licensed patent rights begin, we are obligated to pay the University of Michigan tiered royalties of low single digit percentages of our net sales depending on the amount of our

net sales with standard provision for royalty offsets and sales-based milestones. All future development, regulatory and commercial work on the licensed compounds will be completed fully by us and at our sole expense. The University of Michigan retains the right to use the licensed compounds for non-commercial research, internal and/or educational purposes, with the right to grant the same limited rights to other non-profit research institutions. Under the agreement, as a result of our March 2015 private placement, we issued to the University of Michigan 79,113 shares of our common stock at a fair value of \$0.5 million. The license agreement with the University of Michigan will terminate upon the last-to-expire patent rights, or may be terminated by us at any time with 90 days written notice of termination or terminated by the University of Michigan upon a bankruptcy by us, payment failure by us that is not cured within 30 days or a material breach of the agreement by us that is not cured within 60 days.

## **Competition**

The development and commercialization of new products to treat cancer is intensely competitive and subject to rapid and significant technological change. Although we believe that our knowledge, experience and scientific resources provide us with competitive advantages, we face substantial competition from major pharmaceutical companies, specialty pharmaceutical companies, and biotechnology companies worldwide. Many of our competitors have significantly greater financial, technical and human resources. Smaller and early-stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies. As a result, our competitors may discover, develop, license or commercialize products before or more successfully than we do.

We face competition with respect to our current product candidates, and we will face competition with respect to future product candidates, from segments of the pharmaceutical, biotechnology and other related markets that pursue approaches to targeting molecular alterations and signaling pathways associated with cancer. Our competitors may obtain regulatory approval of their products more rapidly than we do or may obtain patent protection or other intellectual property rights that limit our ability to develop or commercialize our product candidates. Our competitors may also develop drugs that are more effective, more convenient, less costly or possessing better safety profiles than our products, and these competitors may be more successful than us in manufacturing and marketing their products.

In addition, we will need to develop our product candidates in collaboration with diagnostic companies and will face competition from other companies in establishing these collaborations. Our competitors will also compete with us in recruiting and retaining qualified scientific, management and commercial personnel, establishing clinical trial sites and patient registration for clinical trials, as well as in acquiring technologies complementary to, or necessary for, our programs.

Furthermore, we also face competition more broadly across the market for cost-effective and reimbursable cancer treatments. The most common methods of treating patients with cancer are surgery, radiation and drug therapy, including chemotherapy, hormone therapy and targeted drug therapy or a combination of such methods. There are a variety of available drug therapies marketed for cancer. In many cases, these drugs are administered in combination to enhance efficacy. While our product candidates, if any are approved, may compete with these existing drug and other therapies, to the extent they are ultimately used in combination with or as an adjunct to these therapies, our product candidates may not be competitive with them. Some of these drugs are branded and subject to patent protection, and others are available on a generic basis. Insurers and other third-party payors may also encourage the use of generic products or specific branded products. We expect that if our product candidates are approved, they will be priced at a premium over competitive generic, including branded generic, products. As a result, obtaining market acceptance of, and gaining significant share of the market for, any of our product candidates that we successfully introduce to the market will pose challenges. In addition, many companies are developing new therapeutics, and we cannot predict what the standard of care will be as our product candidates progress through clinical development.

### *Tipifarnib Competition*

Although there are currently no approved drugs targeting farnesyl transferase, we are aware of several compounds that are now or have previously been in clinical development, including Merck's lonafarnib, Bristol-Myers Squibb's BMS-214662, Astellas Pharma's, formerly OSI Pharmaceuticals, CP-609,754, and AstraZeneca's AZD3409. To our knowledge, there are no ongoing clinical trials evaluating any of these agents for the treatment of cancer. However, the initiation of clinical development of another of these agents in an oncology setting could become competitively significant, and if tipifarnib or our other product candidates do not offer sustainable advantages over competing products, we may not be able to successfully compete against current and future competitors.

Even if we are successful in developing our product candidates, the resulting products would compete with a variety of established drugs in each targeted therapeutic indication. Although there are currently no drugs approved specifically for the treatment of HRAS-mutant solid tumors, there are several targeted therapies approved for the treatment of HNSCC, including Eli Lilly's/Merck KGaA's cetuximab (Erbix<sup>®</sup>), Bristol Myers Squibb's nivolumab (Opdivo<sup>®</sup>) and Merck's pembrolizumab (Keytruda<sup>®</sup>), and Sq-NSCLC, including Keytruda, Opdivo, Roche's atezolizumab (Tencentriq<sup>®</sup>) and Eli Lilly's ramucirumab (Cyramza<sup>®</sup>). While there are no approved drugs targeting CXCL12, we are aware of Noxxon's olaptosed pegol, currently in clinical development. Competitive drugs currently approved for PTCL include belinostat (Beleodaq<sup>®</sup>) and pralatrexate (Folotyn<sup>®</sup>), marketed by Spectrum Pharmaceuticals, romidepsin (Istodax<sup>®</sup>), marketed by Celgene, and brentuximab vedotin (Adcetris<sup>®</sup>) for anaplastic large cell lymphoma, marketed by Seattle Genetics. There are no targeted therapies approved for the treatment of CMML.

### *ERK Inhibitor Competition*

While there are currently no approved drugs targeting ERK, we are aware of several compounds that are in clinical development, including BioMed Valley Discoveries' ulixertinib (BVD-523), Eli Lilly's LY-3214996, Merck's MK-8353, Novartis' LTT-462, Asana's ASN-007 and Astex's ASTX-029. Furthermore, it is possible that other companies are also engaged in discovery or preclinical development of compounds targeting ERK. These competitors, if successful in clinical development, may achieve clinical activity, regulatory approval and market adoption in advance of our compounds, constraining the ability of our compounds to gain significant market share. Although we believe that KO-947 presents several potential advantages relative to these aforementioned candidates, including potency, prolonged pathway inhibition and the ability to be administered as an intravenous infusion, these results may not translate to superior therapeutic benefit in clinical trials.

### *Menin-MLL Inhibitor Competition*

Although there are currently no approved drugs targeting the menin-MLL interaction, we are aware of other companies engaged in discovery, preclinical or clinical development of menin-MLL inhibitors including Syndax. Although there are no targeted therapies approved specifically for the treatment of MLL-r leukemias, there are several products in clinical development, including Epizyme's EPZ-5676 and Novartis's midostaurin. In addition, Pfizer's palbociclib (IBRANCE<sup>®</sup>) is also in development and has received accelerated approval in combination with letrozole for the treatment of certain genetically identified postmenopausal women.

### **Commercialization**

We have not yet established a sales, marketing or product distribution infrastructure because our lead candidates are still in clinical development. We anticipate that we will aim to retain commercial rights in North America for any of our product candidates for which we may in the future receive marketing approvals. We may also seek to retain commercial rights in Europe for any of our product candidates for which we may in the future receive marketing approvals. We currently anticipate that, if and when appropriate, we will seek to access the North American or European oncology markets through a focused, specialized, internal sales force.

Subject to receiving marketing approvals, we expect to commence commercialization activities by building a focused internal commercial team (marketing, analytics, market access and sales) in North America to sell our products. We may also build a focused commercial team in Europe to sell our products. Outside of regions where we maintain commercial rights, we may enter into distribution and other marketing arrangements with third parties for any of our product candidates that obtain marketing approval in foreign jurisdictions.

We also aim to build a commercial team to create and implement strategies for any products that we may in the future bring to market. We anticipate that our goals for any such commercial teams include developing initiatives with respect to market development or commercialization for any approved products.

We currently expect that any third parties with which we may collaborate in the future on the development of any commercial companion diagnostics for use with our therapeutic products will most likely hold the commercial rights to those diagnostic products.

## **Manufacturing**

We do not own or operate, and currently have no plans to establish, any manufacturing facilities. We currently rely, and expect to continue to rely, on third parties for the manufacture of our product candidates for preclinical and clinical testing as well as for commercial manufacture of any products that we may commercialize. All of our product candidates are small molecules and are manufactured in synthetic processes from available starting materials. The chemistry does not currently require unusual equipment in the manufacturing process. We expect to continue to develop product candidates that can be produced cost-effectively at contract manufacturing facilities.

For all our product candidates, we aim to identify and qualify manufacturers to provide the active pharmaceutical ingredient, or API, and drug product services prior to submission of an NDA, to the FDA.

We generally expect to rely on third parties for the manufacture of any companion diagnostics we or our collaborators may develop.

## **Intellectual Property**

Our commercial success depends in part on our ability to obtain and maintain proprietary or intellectual property protection for our product candidates and our core technologies, including novel biomarker and diagnostic discoveries and other know-how, to operate without infringing on the proprietary rights of others and to prevent others from infringing our proprietary or intellectual property rights. We expect that we will seek to protect our proprietary and intellectual property position by, among other methods, licensing or filing our own U.S., international and foreign patent applications related to our proprietary technology, inventions and improvements that are important to the development and implementation of our business. We also rely on trade secrets, know-how and continuing technological innovation to develop and maintain our proprietary and intellectual property position, which we generally seek to protect through contractual obligations with third parties.

We currently, and expect that we will continue to, file or license patent applications directed to our key product candidates in an effort to establish intellectual property positions regarding composition-of-matter of these product candidates, as well as biomarkers that may be useful in selecting the right patient population for use of any of our product candidates, formulations, processes and methods of using these product candidates in the treatment of various cancers. We own or in-license a patent portfolio including issued U.S. patents and their respective counterparts in a number of foreign jurisdictions, pending U.S. patent applications, pending applications under the Patent Cooperation Treaty and corresponding pending patent applications in a number of foreign jurisdictions. We have exclusively licensed from Janssen a portfolio of approximately 20 patent families. The in-licensed Janssen composition-of-matter and method-of-use patents expired in the United States and Europe in 2016. The U.S. Patent and Trademark Office, or U.S. PTO, issued us several patents directed to the method of treatment of HRAS mutant HNSCC with tipifarnib and corresponding patents have been issued in a number of foreign jurisdictions. In July and November 2019, the U.S. PTO issued us patents directed to the treatment of HRAS mutant HNSCC with any farnesyl transferase inhibitor. In addition, in July 2019 and January 2020, the European Patent Office, or EPO, granted us patents directed to the method of treatment of HRAS mutant HNSCC patients with tipifarnib. The U.S. PTO also issued us patents directed to the method of treatment of AITL with tipifarnib and the method of treatment of CXCL12-expressing PTCL or AML with tipifarnib. In October 2019, the U.S. PTO issued us a patent directed to the method of treatment of CXCL12-expressing PTCL or AML with any farnesyl transferase inhibitor. We are pursuing additional U.S. and foreign method of treatment patents using farnesyl transferase inhibitors, particularly using tipifarnib. We have also exclusively licensed from Memorial Sloan Kettering Cancer Center a patent family pertaining to a method of use of tipifarnib. In addition, the U.S. PTO and a number of foreign jurisdictions, including the EPO, have issued us patents covering the composition of matter of KO-947 and certain structurally related compounds, and methods of using the compounds for the treatment of cancers, and we are pursuing additional U.S. and foreign patents for KO-947. We have exclusively licensed from the University of Michigan or co-own multiple families of patent applications pertaining to our menin-MLL program. The U.S. PTO has issued the University of Michigan and us patents covering the composition of

matter of KO-539 and certain structurally related compounds, and methods of using the compounds for the treatment of cancers, and we are pursuing additional U.S. and foreign patents for KO-539. We currently, and expect that we will continue to, file for patents in the United States with counterparts in major market countries in Europe and other key markets in the rest of the world.

In addition to the patent applications that we have filed to date, we plan to continue to expand our intellectual property portfolio by filing patent applications directed to dosage forms, methods of treatment and additional inhibitor compounds of oncology molecular targets and their derivatives. Specifically, we anticipate that we will seek patent protection in the United States and internationally for novel compositions of matter covering the compounds, the chemistries and processes for manufacturing these compounds, their intermediates and/or metabolites, the use of these compounds in a variety of therapies and the use of biomarkers for patient selection for these compounds. However, these or other patent applications that we may file or license from third parties may not result in the issuance of patents, and any issued patents may cover limited claims that reduce their value and/or may be challenged, invalidated or circumvented. See “Risk Factors—Risks Related to Our Intellectual Property.”

In addition to patents, we also rely upon unpatented trade secrets and know-how and continuing technological innovation to develop and maintain our competitive position. We seek to protect our proprietary information, in part, using confidentiality agreements with our collaborators, scientific advisors, employees and consultants, and invention assignment agreements with our employees and selected consultants, scientific advisors and collaborators. The confidentiality agreements are designed to protect our proprietary information and, in the case of agreements or clauses requiring invention assignment, to grant us ownership of technologies that are developed through a relationship with a third-party.

#### *Orange Book Listing*

In seeking approval for a drug through an NDA, applicants are required to list with the FDA certain patents whose claims cover the applicant’s product. Upon approval, each of the patents listed in the application for the drug is then published in the FDA’s Approved Drug Products with Therapeutic Equivalence Evaluations, commonly known as the Orange Book. Any applicant who files an abbreviated new drug application, or ANDA, seeking approval of a generic equivalent version of a drug listed in the Orange Book or a Section 505(b)(2) NDA referencing a drug listed in the Orange Book must certify to the FDA that (1) no patent information on the drug product that is the subject of the application has been submitted to the FDA; (2) such patent has expired; (3) the date on which such patent expires; or (4) such patent is invalid or will not be infringed upon by the manufacture, use or sale of the drug product for which the application is submitted. This last certification is known as a paragraph IV certification. A notice of the paragraph IV certification must be provided to each owner of the patent that is the subject of the certification and to the holder of the approved NDA to which the ANDA or Section 505(b)(2) application refers. The applicant may also elect to submit a “section viii” statement certifying that its proposed label does not contain, or carves out, any language regarding the patented method-of-use rather than certify to a listed method-of-use patent.

If the NDA holder for the reference drug and/or patent owners assert a patent challenge directed to one of the Orange Book listed patents within 45 days of the receipt of the paragraph IV certification notice, the FDA is prohibited from approving the ANDA until the earlier of 30 months from the receipt of the paragraph IV certification, expiration of the patent, settlement of the lawsuit or a decision in the infringement case that is favorable to the applicant. The ANDA or Section 505(b)(2) application also will not be approved until any applicable non-patent exclusivity listed in the Orange Book for the reference drug has expired as described in further detail below.

#### *Non-Patent Exclusivity*

In addition to patent exclusivity, the holder of an NDA for a listed drug may be entitled to a period of non-patent exclusivity, during which the FDA cannot approve an ANDA or Section 505(b)(2) application that relies on the listed drug. For example, a pharmaceutical manufacturer may obtain five years of non-patent exclusivity upon FDA approval of an NCE, which is a drug that contains an active moiety that has not been approved by the FDA in any other NDA. An “active moiety” is defined as the molecule or ion responsible for the drug substance’s physiological or pharmacologic action. During the five-year exclusivity period, the FDA cannot accept for filing any ANDA seeking approval of a generic version of that drug or any Section 505(b)(2) NDA for the same active moiety and that relies on the FDA’s findings regarding that drug, except that the FDA may accept an application for filing after four years if the follow-on applicant makes a paragraph IV certification. Five-year NCE exclusivity does not block the submission, review or approval of a 505(b)(1) NDA.

## *Patent Term Extension*

After NDA approval, owners of relevant drug patents may apply for up to a five-year patent extension. The allowable patent term extension is calculated as half of the drug's testing phase—the time between investigational new drug, or IND, application and NDA submission—plus all of the review phase—the time between NDA submission and approval up to a maximum of five years. The time can be shortened if the FDA determines that the applicant did not pursue approval with due diligence. The total patent term, including the extension may not exceed 14 years from the date of NDA approval.

For patents that might expire during the application phase, the patent owner may request an interim patent extension. An interim patent extension increases the patent term by one year and may be renewed up to four times. For each interim patent extension granted, the post-approval patent extension is reduced by one year. The director of the U.S. PTO must determine that approval of the drug covered by the patent for which a patent extension is being sought is likely. Interim patent extensions are not available for a drug for which an NDA has not been submitted.

## **Government Regulation**

### *FDA Approval Process*

In the United States, pharmaceutical products are subject to extensive regulation by the FDA. The Federal Food, Drug and Cosmetic Act and other federal and state statutes and regulations govern, among other things, the research, development, testing, manufacture, storage, recordkeeping, approval, labeling, promotion and marketing, distribution, post-approval monitoring and reporting, sampling and import and export of pharmaceutical products. Failure to comply with applicable U.S. requirements may subject a company to a variety of administrative or judicial sanctions, such as FDA refusal to approve pending NDAs, warning or untitled letters, product recalls, product seizures, total or partial suspension of production or distribution, injunctions, fines, civil penalties and criminal prosecution.

Pharmaceutical product development for a new product or certain changes to an approved product in the United States typically involves preclinical laboratory and animal tests, the submission to the FDA of an IND which must become effective before clinical testing may commence, and adequate and well-controlled clinical trials to establish the safety and effectiveness of the drug for each indication for which FDA approval is sought.

Preclinical tests include laboratory evaluation of product chemistry, formulation and toxicity, as well as animal trials to assess the characteristics and potential safety and efficacy of the product. The conduct of the preclinical tests must comply with federal regulations and requirements, including good laboratory practices. The results of preclinical testing are submitted to the FDA as part of an IND along with other information, including information about product chemistry, manufacturing and controls, and a proposed clinical trial protocol. Long-term preclinical tests, such as animal tests of reproductive toxicity and carcinogenicity, may continue after the IND is submitted.

A 30-day waiting period after the submission of each IND is required prior to the commencement of clinical testing in humans. If the FDA has not placed the IND on hold within this 30-day period, the clinical trial proposed in the IND may begin.

Clinical trials involve the administration of the investigational new drug to healthy volunteers or patients under the supervision of a qualified investigator. Clinical trials must be conducted: (i) in compliance with federal regulations; (ii) in compliance with good clinical practice, or GCP, an international standard meant to protect the rights and health of patients and to define the roles of clinical trial sponsors, administrators and monitors; and (iii) under protocols detailing the objectives of the clinical trial, the parameters to be used in monitoring safety and the effectiveness criteria to be evaluated. Each protocol involving testing on U.S. patients and subsequent protocol amendments must be submitted to the FDA as part of the IND.

The FDA may order the temporary, or permanent, discontinuation of a clinical trial at any time, or impose other sanctions, if it believes that the clinical trial either is not being conducted in accordance with FDA requirements or presents an unacceptable risk to the clinical trial patients. The trial protocol and informed consent information for patients in clinical trials must also be submitted to an institutional review board, or IRB, for approval. An IRB may also require the clinical trial at the site to be halted, either temporarily or permanently, for failure to comply with the IRB's requirements, or may impose other conditions.

Clinical trials to support NDAs for marketing approval are typically conducted in three sequential phases, but the phases may overlap. In Phase 1, the initial introduction of the drug into healthy human patients, the drug is tested to assess metabolism, pharmacokinetics, pharmacological actions, side effects associated with increasing doses and, if possible, early

evidence of effectiveness. Phase 2 usually involves clinical trials in a limited patient population to determine the effectiveness of the drug for a specific indication, dosage tolerance and optimum dosage and to identify common adverse effects and safety risks. If a compound demonstrates evidence of effectiveness and an acceptable safety profile in Phase 2 evaluations, Phase 3 clinical trials are undertaken to obtain the additional information about clinical efficacy and safety in a larger number of patients, typically at geographically dispersed clinical trial sites, to permit the FDA to evaluate the overall benefit-risk relationship of the drug and to provide adequate information for the labeling of the drug. In most cases, the FDA requires two adequate and well-controlled Phase 3 clinical trials to demonstrate the efficacy of the drug. A single Phase 3 clinical trial with other confirmatory evidence may be sufficient in rare instances where the study is a large multicenter clinical trial demonstrating internal consistency and a statistically very persuasive finding of a clinically meaningful effect on mortality, irreversible morbidity or prevention of a disease with a potentially serious outcome and confirmation of the result in a second clinical trial would be practically or ethically impossible.

After completion of the required clinical testing, an NDA is prepared and submitted to the FDA. FDA approval of the NDA is required before marketing of the product may begin in the United States. The NDA must include the results of all preclinical, clinical and other testing and a compilation of data relating to the product's pharmacology, chemistry, manufacture and controls. The cost of preparing and submitting an NDA is substantial, and the application user fees are typically increased annually.

The FDA has 60 days from its receipt of an NDA to determine whether the application will be accepted for filing based on the agency's threshold determination that it is sufficiently complete to permit substantive review. Once the submission is accepted for filing, the FDA begins an in-depth review. The FDA has agreed to certain performance goals in the review of NDAs to encourage timeliness. Most applications for standard review drug products are reviewed within 12 months from submission; most applications for priority review drugs are reviewed within eight months from submission. Priority review can be applied to drugs that the FDA determines offer major advances in treatment or provide a treatment where no adequate therapy exists. The review process for both standard and priority review may be extended by the FDA for three additional months to consider certain late-submitted information, or information intended to clarify information already provided in the submission.

The FDA may also refer applications for novel drug products, or drug products that present difficult questions of safety or efficacy, to an outside advisory committee—typically a panel that includes clinicians and other experts—for review, evaluation and a recommendation as to whether the application should be approved. The FDA is not bound by the recommendation of an advisory committee, but it generally follows such recommendations.

Before approving an NDA, the FDA will typically inspect one or more clinical sites to assure compliance with GCP. Additionally, the FDA will inspect the facility or the facilities at which the drug is manufactured. The FDA will not approve the product unless compliance with current good manufacturing practice, or cGMP—a quality system regulating manufacturing—is satisfactory and the NDA contains data that provide substantial evidence that the drug is safe and effective in the indication studied.

After the FDA evaluates the NDA and the manufacturing facilities, it issues either an approval letter or a complete response letter. A complete response letter generally outlines the deficiencies in the submission and may require substantial additional testing, or information, for the FDA to reconsider the application. If, or when, those deficiencies have been addressed to the FDA's satisfaction in a resubmission of the NDA, the FDA will issue an approval letter. The FDA has committed to reviewing such resubmissions in two or six months depending on the type of information included.

An approval letter authorizes commercial marketing of the drug with specific prescribing information for specific indications. As a condition of NDA approval, the FDA may require a risk evaluation and mitigation strategy, or REMS, to help ensure that the benefits of the drug outweigh the potential risks. REMS can include medication guides, communication plans for healthcare professionals, and elements to assure safe use, or ETASU. ETASU can include, but is not limited to, special training or certification for prescribing or dispensing, dispensing only under certain circumstances, special monitoring and the use of patient registries. The requirement for a REMS can materially affect the potential market and profitability of the drug. Moreover, product approval may require substantial post-approval testing and surveillance to monitor the drug's safety or efficacy. Once granted, product approvals may be withdrawn if compliance with regulatory standards is not maintained or problems are identified following initial marketing.

Changes to some of the conditions established in an approved application, including changes in indications, labeling, or manufacturing processes or facilities, require submission and FDA approval of a new NDA or NDA supplement before the change can be implemented. An NDA supplement for a new indication typically requires clinical data similar to that in the

original application, and the FDA uses the same procedures and actions in reviewing NDA supplements as it does in reviewing NDAs.

#### *Fast Track Designation and Accelerated Approval*

The FDA is required to facilitate the development, and expedite the review, of drugs that are intended for the treatment of a serious or life-threatening disease or condition for which there is no effective treatment and which demonstrate the potential to address unmet medical needs for the condition. Under the Fast Track program, the sponsor of a new product candidate may request that the FDA designate the product candidate for a specific indication as a Fast Track drug concurrent with, or after, the filing of the IND for the product candidate. The FDA must determine if the product candidate qualifies for Fast Track Designation within 60 days of receipt of the sponsor's request.

Under the FDA's accelerated approval regulations, the FDA may approve a drug for a serious or life-threatening illness that provides meaningful therapeutic benefit to patients over existing treatments based upon a surrogate endpoint that is reasonably likely to predict clinical benefit, or on a clinical endpoint that can be measured earlier than irreversible morbidity or mortality, that is reasonably likely to predict an effect on irreversible morbidity or mortality or other clinical benefit, taking into account the severity, rarity or prevalence of the condition and the availability or lack of alternative treatments.

In clinical trials, a surrogate endpoint is a measurement of laboratory or clinical signs of a disease or condition that substitutes for a direct measurement of how a patient feels, functions or survives. Surrogate endpoints can often be measured more easily or more rapidly than clinical endpoints. A product candidate approved on this basis is subject to rigorous post-approval compliance requirements, including the completion of Phase 4, or post-approval clinical trials, to confirm the effect on the clinical endpoint. Failure to conduct required post-approval studies, or confirm a clinical benefit during post-approval studies, will allow the FDA to withdraw the drug from the market on an expedited basis. All promotional materials for product candidates approved under accelerated regulations are subject to priority review by the FDA.

If a submission is granted Fast Track Designation, the sponsor may engage in more frequent interactions with the FDA, and the FDA may review sections of the NDA before the application is complete. This rolling review is available if the applicant provides, and the FDA approves, a schedule for the submission of the remaining information and the applicant pays applicable user fees. However, the FDA's time period goal for reviewing an application does not begin until the last section of the NDA is submitted. Additionally, Fast Track Designation may be withdrawn by the FDA if the FDA believes that the designation is no longer supported by data emerging in the clinical trial process.

#### *Breakthrough Therapy Designation*

The FDA is also required to expedite the development and review of the application for approval of drugs that are intended to treat a serious or life-threatening disease or condition where preliminary clinical evidence indicates that the drug may demonstrate substantial improvement over existing therapies on one or more clinically significant endpoints. Under the Breakthrough Therapy program, the sponsor of a new product candidate may request that the FDA designate the product candidate for a specific indication as a breakthrough therapy concurrent with, or after, the filing of the IND for the product candidate. The FDA must determine if the product candidate qualifies for Breakthrough Therapy designation within 60 days of receipt of the sponsor's request.

#### *Orphan Drug Designation and Exclusivity*

The Orphan Drug Act provides incentives for the development of products intended to treat rare diseases or conditions. Under the Orphan Drug Act, the FDA may grant orphan designation to a drug intended to treat a rare disease or condition, which is generally a disease or condition that affects fewer than 200,000 individuals in the United States, or more than 200,000 individuals in the United States and for which there is no reasonable expectation that the cost of developing and making a drug available in the United States for this type of disease or condition will be recovered from sales of the product. If a sponsor demonstrates that a drug is intended to treat a rare disease or condition, the FDA will grant orphan designation for that product for the orphan disease indication, assuming the same drug has not already been approved for the indication for which the sponsor is seeking orphan designation. If the same drug has already been approved for the indication for which the sponsor is seeking orphan designation, the sponsor must present a plausible hypothesis of clinical superiority to obtain orphan designation. Orphan designation must be requested before submitting an NDA. After the FDA grants orphan designation, the FDA discloses the identity of the therapeutic agent and its potential orphan use.

Orphan designation may provide manufacturers with benefits such as research grants, tax credits, Prescription Drug User Fee Act application fee waivers, and eligibility for orphan drug exclusivity. If a product that has orphan designation subsequently receives the first FDA approval of the active moiety for that disease or condition for which it has such designation, the product is entitled to orphan drug exclusivity, which for seven years prohibits the FDA from approving another product with the same active ingredient for the same indication, except in limited circumstances. Orphan drug exclusivity will not bar approval of another product under certain circumstances, including if a subsequent product with the same active ingredient for the same indication is shown to be clinically superior to the approved product on the basis of greater efficacy or safety or is shown to provide a major contribution to patient care or if the company with orphan drug exclusivity is not able to meet market demand. Further, the FDA may approve more than one product for the same orphan indication or disease as long as the products contain different active ingredients. Moreover, competitors may receive approval of different products for the indication for which the orphan drug has exclusivity or obtain approval for the same product but for a different indication for which the orphan drug has exclusivity.

In the European Union, orphan designation also entitles a party to financial incentives such as reduction of fees or fee waivers and a grant of ten years of market exclusivity following drug or biological product approval. This period may be reduced to six years if the orphan designation criteria are no longer met, including where it is shown that the product is sufficiently profitable not to justify maintenance of market exclusivity.

Orphan designation must be requested prior to submission of an application for marketing approval. Orphan designation does not convey any advantage in, or shorten the duration of, the regulatory review and approval process.

#### *Post-Approval Requirements*

Once an NDA is approved, a product will be subject to certain post-approval requirements. For instance, the FDA closely regulates the post-approval marketing and promotion of drugs, including standards and regulations for direct-to-consumer advertising, off-label promotion, industry-sponsored scientific and educational activities and promotional activities involving the internet. Drugs may be marketed only for the approved indications and in accordance with the provisions of the approved labeling. However, companies may share truthful and not misleading information that is otherwise consistent with the drug's FDA approved labeling.

Adverse event reporting and submission of periodic reports are required following FDA approval of an NDA. The FDA also may require post-approval testing, known as Phase 4 testing, REMS and surveillance to monitor the effects of an approved product or the FDA may place conditions on an approval that could restrict the distribution or use of the product. In addition, quality control, drug manufacture, packaging and labeling procedures must continue to conform to cGMPs after approval. Drug manufacturers and certain of their subcontractors are required to register their establishments with the FDA and certain state agencies. Registration with the FDA subjects entities to periodic unannounced inspections by the FDA, during which the agency inspects manufacturing facilities to assess compliance with cGMPs. Accordingly, manufacturers must continue to expend time, money and effort in the areas of production and quality-control to maintain compliance with cGMPs. Regulatory authorities may withdraw product approvals or request product recalls if a company fails to comply with regulatory standards, if it encounters problems following initial marketing or if previously unrecognized problems are subsequently discovered.

#### *Pediatric Information*

Under the Pediatric Research Equity Act, or PREA, NDAs or supplements to NDAs must contain data to assess the safety and effectiveness of the drug for the claimed indications in all relevant pediatric subpopulations and to support dosing and administration for each pediatric subpopulation for which the drug is safe and effective. The FDA may grant full or partial waivers, or deferrals, for submission of data. Unless otherwise required by regulation, PREA does not apply to any drug for an indication for which orphan designation has been granted.

The Best Pharmaceuticals for Children Act, or BPCA, provides NDA holders a six-month extension of any exclusivity—patent or non-patent—for a drug if certain conditions are met. Conditions for exclusivity include the FDA's determination that information relating to the use of a new drug in the pediatric population may produce health benefits in that population, the FDA making a written request for pediatric studies and the applicant agreeing to perform, and reporting on, the requested studies within the statutory timeframe. Applications under the BPCA are treated as priority applications, with all of the benefits that designation confers.

## *FDA Regulation of Companion Diagnostics*

Our drug products may rely upon *in vitro* companion diagnostics for use in selecting the patients that we believe will respond to our cancer therapeutics. If safe and effective use of a therapeutic product depends on an *in vitro* diagnostic, or IVD, the FDA generally will require approval or clearance of the diagnostic at the same time that the FDA approves the therapeutic product. This policy is described in an August 2014 FDA guidance document.

The FDA has required *in vitro* companion diagnostics intended to select the patients who will respond to cancer treatment to obtain a premarket approval, or PMA, for that diagnostic simultaneously with approval of the drug. We believe that the FDA will require PMA approval of one or more *in vitro* companion diagnostics to identify patient populations suitable for our cancer therapies. The review of these *in vitro* companion diagnostics in conjunction with the review of our cancer treatments involves coordination of review by the FDA's Center for Drug Evaluation and Research and by the FDA's Center for Devices and Radiological Health.

The PMA process, including the gathering of clinical and nonclinical data and the submission to and review by the FDA, can take several years or longer. It involves a rigorous premarket review during which the applicant must prepare and provide the FDA with reasonable assurance of the device's safety and effectiveness and information about the device and its components regarding, among other things, device design, manufacturing and labeling. PMA applications are subject to an application fee. In addition, PMAs for certain devices must generally include the results from extensive preclinical and adequate and well-controlled clinical trials to establish the safety and effectiveness of the device for each indication for which FDA approval is sought. In particular, for a diagnostic, the applicant must demonstrate that the diagnostic produces reproducible results when the same sample is tested multiple times by multiple users at multiple laboratories. As part of the PMA review, the FDA will typically inspect the manufacturer's facilities for compliance with the Quality System Regulation, or QSR, which imposes elaborate testing, control, documentation and other quality assurance requirements.

PMA approval is not guaranteed, and the FDA may ultimately respond to a PMA submission with a not approvable determination based on deficiencies in the application and require additional clinical trial or other data that may be expensive and time-consuming to generate and that can substantially delay approval. If the FDA's evaluation of the PMA application is favorable, the FDA typically issues an approvable letter requiring the applicant's agreement to specific conditions, such as changes in labeling, or specific additional information, such as submission of final labeling, in order to secure final approval of the PMA. If the FDA concludes that the applicable criteria have been met, the FDA will issue a PMA for the approved indications, which can be more limited than those originally sought by the applicant. The PMA can include post-approval conditions that the FDA believes necessary to ensure the safety and effectiveness of the device, including, among other things, restrictions on labeling, promotion, sale and distribution.

After a device is placed on the market, it remains subject to significant regulatory requirements. Medical devices may be marketed only for the uses and indications for which they are cleared or approved. Device manufacturers must also establish registration and device listings with the FDA. A medical device manufacturer's manufacturing processes and those of its suppliers are required to comply with the applicable portions of the QSR, which cover the methods and documentation of the design, testing, production, processes, controls, quality assurance, labeling, packaging and shipping of medical devices. Domestic facility records and manufacturing processes are subject to periodic unscheduled inspections by the FDA. The FDA also may inspect foreign facilities that export products to the United States.

Failure to comply with applicable regulatory requirements can result in enforcement action by the FDA, which may include any of the following sanctions: warning letters, fines, injunctions, civil or criminal penalties, recall or seizure of current or future products, operating restrictions, partial suspension or total shutdown of production, denial of submissions for new products or withdrawal of PMA approvals.

## *Clinical Trials and IDEs*

A clinical trial is almost always required to support a PMA application. In some cases, one or more smaller IDE studies may precede a pivotal clinical trial intended to demonstrate the safety and efficacy of the investigational device.

All clinical studies of investigational devices must be conducted in compliance with the FDA's requirements. If an investigational device could pose a significant risk to patients pursuant to FDA regulations, the FDA must approve an IDE application prior to initiation of investigational use. IVD trials usually do not require an IDE, as the FDA does not judge them to be a significant risk because the results do not affect the patients in the trial. However, for a clinical trial where the IVD

result directs the therapeutic care of patients with cancer, we believe that the FDA may consider the investigation to present significant risk and require an IDE application.

An IDE application must be supported by appropriate data, such as laboratory test results, showing that it is safe to test the device in humans and that the testing protocol is scientifically sound. The FDA typically grants IDE approval for a specified number of patients. A non-significant risk device does not require FDA approval of an IDE. Both significant risk and non-significant risk investigational devices require approval from IRBs at the trial centers where the device will be used.

During the clinical trial, the sponsor must comply with the FDA's IDE requirements for investigator selection, clinical trial monitoring, reporting and record keeping. The investigators must obtain patient informed consent, rigorously follow the investigational plan and trial protocol, control the disposition of investigational devices and comply with all reporting and record keeping requirements. Prior to granting PMA approval, the FDA typically inspects the records relating to the conduct of the trial and the clinical data supporting the PMA application for compliance with applicable requirements.

Although the QSR does not fully apply to investigational devices, the QSR requirement for controls on design and development does apply. The sponsor also must manufacture the investigational device in conformity with the quality controls described in the IDE application and any conditions of IDE approval that the FDA may impose with respect to manufacturing.

#### *Foreign Regulation*

In addition to regulations in the United States, we will be subject to a variety of foreign regulations governing clinical trials and commercial sales and distribution of our product candidates to the extent we choose to sell any products outside of the United States. Whether or not we obtain FDA approval for a product, we must obtain approval of a product by regulatory authorities of foreign countries before we can commence clinical trials or marketing of the product in those countries. The approval process varies from country to country and the time may be longer or shorter than that required for FDA approval. The requirements governing the conduct of clinical trials, product licensing, pricing and reimbursement vary greatly from country to country. As in the United States, post-approval regulatory requirements, such as those regarding product manufacture, marketing, or distribution would apply to any product that is approved outside the United States.

Government authorities in the United States, at the federal, state and local level, and in other countries, extensively regulate, among other things, the research, development, testing, manufacture, including any manufacturing changes, packaging, storage, recordkeeping, labeling, advertising, promotion, distribution, marketing, post-approval monitoring and reporting, import and export of pharmaceutical products, such as those we are developing.

There are also foreign regulations governing the privacy and security of health information and the use of personal information to sell or market products, including the General Data Protection Regulation (EU) 2016/679, or GDPR, which went into effect on May 25, 2018, and which imposes privacy and security obligations on any entity that collects and/or processes health data from individuals located in the European Union and/or sells or markets products in the European Union. Under the GDPR, fines of up to 20 million euros or up to 4% of the annual global turnover of the infringer, whichever is greater, could be imposed for significant non-compliance.

#### *Additional Healthcare Regulations and Environmental Matters*

In addition to FDA restrictions on marketing of pharmaceutical products, we are subject to additional healthcare regulation and enforcement by the federal government and by authorities in the states and foreign jurisdictions in which we conduct our business. These laws include transparency laws, anti-kickback statutes, false claims statutes and regulation regarding providing drug samples, among others.

The federal Anti-Kickback Statute prohibits, among other things, individuals and entities from knowingly and willfully offering, paying, soliciting or receiving remuneration to induce or in return for either the referral of an individual or the purchasing, leasing, ordering or arranging for the purchase, lease or order of any healthcare item or service reimbursable under Medicare, Medicaid or other federally financed healthcare programs.

Federal false claims laws, including the False Claims Act, prohibit, among other things, any person or entity from knowingly presenting, or causing to be presented, a false claim for payment to the federal government, or knowingly making, or causing to be made, a false statement to have a false claim paid. Pharmaceutical companies have been prosecuted under these laws for allegedly inflating drug prices they report to pricing services, which in turn were used by the government to set

Medicare and Medicaid reimbursement rates, and for allegedly providing free product to customers with the expectation that the customers would bill federal programs for the product. In addition, certain marketing practices, including off-label promotion, may also violate false claims laws.

The federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, imposes criminal and civil liability for, among other things, executing a scheme to defraud any healthcare benefit program or making false statements relating to healthcare matters.

HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act, or the HITECH Act, and their implementing regulations, also imposes obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of protected health information used and disclosed by covered entities and their business associates that create, receive, maintain, or transmit protected health information in connection with providing a service for or on behalf of a covered entity. Many states and foreign jurisdictions also have laws and regulations that govern the privacy and security of individually identifiable health information, and such laws often vary from one another and from HIPAA.

The federal Physician Payments Sunshine Act requires certain manufacturers of drugs, devices, biologics and medical supplies for which payment is available under Medicare, Medicaid or the Children's Health Insurance Program, with specific exceptions, to report annually to the Centers for Medicare & Medicaid Services, or CMS, information related to payments or other transfers of value made to physicians, as defined by such law, and teaching hospitals. It also requires certain manufacturers and group purchasing organizations to report annually ownership and investment interests held by physicians and their immediate family members.

The majority of states also have statutes or regulations similar to the federal Anti-Kickback Statute and false claims laws, which apply to items and services reimbursed under Medicaid and other state programs, or, in several states, apply regardless of the payor. Some state laws require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government and may require drug manufacturers to track and report information related to payments and other transfers of value to physicians and other healthcare providers, marketing expenditures or drug pricing. Certain state and local laws also require the registration of pharmaceutical sales representatives. Our activities may also subject to be certain state laws regarding the privacy and security of health information that may not be preempted by HIPAA.

Because of the breadth of these laws and the narrowness of the statutory exceptions and regulatory safe harbors available, it is possible that some of our business activities could be subject to challenge under one or more of such laws. If our operations are found to be in violation of any of the federal and state laws described above or any other governmental regulations that apply to us, we may be subject to penalties, including potentially significant administrative, criminal and civil penalties, damages, fines, disgorgement, imprisonment, exclusion from participation in government healthcare programs, additional reporting requirements and oversight if we become subject to a corporate integrity agreement or similar agreement to resolve allegations of non-compliance with these laws, injunctions, recall or seizure of products, total or partial suspension of production, denial or withdrawal of pre-marketing product approvals, private "qui tam" actions brought by individual whistleblowers in the name of the government or refusal to allow us to enter into supply contracts, including government contracts, and the curtailment or restructuring of our operations, any of which could adversely affect our ability to operate our business and our results of operations

In addition to regulatory schemes that apply, or may in the future apply, to our business, we are or may become subject to various environmental, health and safety laws and regulations governing, among other things, laboratory procedures and any use and disposal by us of hazardous or potentially hazardous substances used in connection with our research and development activities. We do not presently expect such environmental, health and safety laws or regulations to materially impact our present or planned future activities.

## **Coverage and Reimbursement**

Sales of any of our product candidates that may be approved, including any drug or companion diagnostics we may develop, will depend, in part, on the extent to which the cost of the product will be covered by third-party payors. Third-party payors may limit coverage to an approved list of products, or formulary, which might not include all drug products approved by the FDA for an indication. A payor's decision to provide coverage for a drug product does not imply that an adequate reimbursement rate will be approved. Further, one payor's determination to provide coverage for a drug product does not assure that other payors will also provide coverage for the drug product. Adequate third-party payor reimbursement may not

be available to enable us to maintain price levels sufficient to realize an appropriate return on our investment in product development.

Any product candidates for which we obtain marketing approval may not be considered medically necessary or cost-effective by third-party payors, and we may need to conduct expensive pharmacoeconomic studies in the future to demonstrate the medical necessity and/or cost effectiveness of any such product. Nonetheless, our product candidates may not be considered medically necessary or cost effective. The U.S. government, state legislatures and foreign governments have shown increased interest in implementing cost containment programs to limit government-paid health care costs, including price controls, restrictions on reimbursement and requirements for substitution of generic products. Continued interest in and adoption of such controls and measures, and tightening of restrictive policies in jurisdictions with existing controls and measures, could limit payments for pharmaceuticals such as the product candidates we are developing.

## **Health Reform**

The United States and some foreign jurisdictions are considering or have enacted a number of legislative and regulatory proposals to change the healthcare system in ways that could affect our ability to sell our products profitably. Among policy makers and payors in the United States and elsewhere, there is significant interest in promoting changes in healthcare systems with the stated goals of containing healthcare costs, improving quality and expanding access. In the United States, the pharmaceutical industry has been a specific focus of these efforts and has been significantly affected by major legislative initiatives. By way of example, in March 2010, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, or collectively the ACA, was signed into law, which intended to broaden access to health insurance, reduce or constrain the growth of healthcare spending, enhance remedies against fraud and abuse, add transparency requirements for the healthcare and health insurance industries, impose taxes and fees on the health industry and impose additional health policy reforms. With regard to pharmaceutical products, among other things, the ACA expanded and increased industry rebates for drugs covered under Medicaid programs and made changes to the coverage requirements under the Medicare prescription drug benefit. There remain judicial and Congressional challenges to certain aspects of the ACA. Since January 2017, President Trump has signed two Executive Orders and other directives designed to delay the implementation of certain provisions of the ACA or otherwise circumvent some of the requirements for health insurance mandated by the ACA. Concurrently, Congress has considered legislation that would repeal or repeal and replace all or part of the ACA. While Congress has not passed comprehensive repeal legislation, several bills affecting the implementation of certain taxes under the ACA have been signed into law. Legislation enacted in 2017, informally titled the Tax Cuts and Jobs Act, included a provision which repealed, effective January 1, 2019, the tax-based shared responsibility payment imposed by the ACA on certain individuals who fail to maintain qualifying health coverage for all or part of a year that is commonly referred to as the “individual mandate.” In addition, the 2020 federal spending package permanently eliminated, effective January 1, 2020, the ACA-mandated “Cadillac” tax on high-cost employer-sponsored health coverage and medical device tax and, effective January 1, 2021, also eliminates the health insurer tax. The Bipartisan Budget Act of 2018, or the BBA, among other things, amended the ACA, effective January 1, 2019, to increase from 50% to 70% the point-of-sale discount that is owed by pharmaceutical manufacturers who participate in Medicare Part D and to close the coverage gap in most Medicare drug plans, commonly referred to as the “donut hole.” On December 14, 2018, a Texas U.S. District Court Judge ruled that the ACA is unconstitutional in its entirety because the “individual mandate” was repealed by Congress as part of the Tax Cuts and Jobs Act. Additionally, on December 18, 2019, the U.S. Court of Appeals for the 5th Circuit upheld the District Court ruling that the individual mandate was unconstitutional and remanded the case back to the District Court to determine whether the remaining provisions of the ACA are invalid as well. It is unclear how this decision, future decisions, subsequent appeals, and other efforts to repeal and replace the ACA will impact the ACA.

In addition, other legislative changes have been proposed and adopted since the ACA was enacted. These changes included aggregate reductions to Medicare payments to providers of up to 2% per fiscal year effective April 1, 2013 and, due to subsequent legislative amendments to the statute, including the BBA, will stay in effect through 2029 unless additional Congressional action is taken. In January 2013, President Obama signed into law the American Taxpayer Relief Act of 2012, which, among other things, reduced Medicare payments to several providers, and increased the statute of limitations period for the government to recover overpayments to providers from three to five years. These new laws may result in additional reductions in Medicare and other healthcare funding, which could have a material adverse effect on customers for our drugs, if approved, and, accordingly, our financial operations.

Recently there has been heightened governmental scrutiny over the manner by which manufacturers set prices for their marketed products. For example, there have been several recent U.S. Congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to drug pricing, review the relationship between pricing and manufacturer patient programs, reduce the cost of drugs under Medicare, and reform government

program reimbursement methodologies for drug products. At the federal level, the Trump administration's budget proposal for fiscal year 2020 contains further drug price control measures that could be enacted during the budget process or in other future legislation, including, for example, measures to permit Medicare Part D plans to negotiate the price of certain drugs under Medicare Part B, to allow some states to negotiate drug prices under Medicaid, and to eliminate cost sharing for generic drugs for low-income patients. Further, the Trump administration released a "Blueprint," or plan, to lower drug prices and reduce out of pocket costs of drugs that contains additional proposals to increase drug manufacturer competition, increase the negotiating power of certain federal healthcare programs, incentivize manufacturers to lower the list price of their products, and reduce the out of pocket costs of drug products paid by consumers. The Department of Health and Human Services, or HHS, has solicited feedback on some of these measures and has implemented others under its existing authority. For example, in May 2019, CMS issued a final rule to allow Medicare Advantage plans the option to use step therapy for Part B drugs beginning January 1, 2020. This final rule codified CMS's policy change that was effective January 1, 2019. While some of these and other measures may require additional authorization to become effective, Congress and the Trump administration have each indicated that it will continue to seek new legislative and/or administrative measures to control drug costs. At the state level, legislatures have increasingly passed legislation and implemented regulations designed to control pharmaceutical and biological product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing.

In the coming years, additional legislative and regulatory changes could be made to governmental health programs that could significantly impact pharmaceutical companies and the success of our product candidates.

## **Employees**

As of December 31, 2019, we had 60 total employees, of which 57 are full-time employees. None of our employees are represented by a labor union or covered by a collective bargaining agreement. We consider our relationship with our employees to be good.

## **Corporate Information**

Our corporate headquarters are located at 3033 Science Park Road, Suite 220, San Diego, California 92121, and our telephone number is (858) 500-8800. We also occupy offices in Cambridge, Massachusetts. We maintain a website at [www.kuraoncology.com](http://www.kuraoncology.com). Our website and the information contained on, or that can be accessed through, the website will not be deemed to be incorporated by reference in, and are not considered part of, this Annual Report. Our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to such reports filed or furnished pursuant to Section 13(a) and 15(d) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, are available free of charge on the Investors and Media portion of our website as soon as reasonably practical after we electronically file such material with, or furnish it to, the SEC.

All brand names or trademarks appearing in this Annual Report are the property of their respective holders. Use or display by us of other parties' trademarks, trade dress, or products in this Annual Report is not intended to, and does not, imply a relationship with, or endorsements or sponsorship of, us by the trademark or trade dress owners.

## RISK FACTORS

*Except for the historical information contained herein or incorporated by reference, this Annual Report and the information incorporated by reference contains forward-looking statements that involve risks and uncertainties. These statements include projections about our accounting and finances, plans and objectives for the future, future operating and economic performance and other statements regarding future performance. These statements are not guarantees of future performance or events. Our actual results may differ materially from those discussed here. Factors that could cause or contribute to differences in our actual results include those discussed in the following section, as well as those discussed in Part II, Item 7 entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and elsewhere throughout this Annual Report and in any other documents incorporated by reference into this Annual Report. You should consider carefully the following risk factors, together with all of the other information included or incorporated in this Annual Report. Each of these risk factors, either alone or taken together, could adversely affect our business, operating results and financial condition, as well as adversely affect the value of an investment in our common stock. There may be additional risks that we do not presently know of or that we currently believe are immaterial which could also impair our business and financial position.*

### **Risks Related to Our Financial Position and Need For Additional Capital**

***We expect to incur losses over the next several years and may never achieve or maintain profitability.***

To date, we have financed our operations primarily through equity and debt financings. We expect to continue to incur significant expenses and increasing operating losses for the foreseeable future. The net losses we incur may fluctuate significantly from quarter-to-quarter and year-to-year. We anticipate that our expenses will increase substantially if and as we:

- continue research and development of our product candidates;
- initiate new clinical trials for our product candidates;
- seek marketing approvals for our product candidates;
- enter into collaboration arrangements for companion diagnostics for our product candidates;
- establish a sales, marketing and distribution infrastructure to commercialize any products for which we may obtain marketing approval;
- maintain, expand and protect our intellectual property portfolio;
- hire additional personnel;
- add operational, financial and management information systems and personnel, including personnel to support our product development and planned future commercialization efforts; and
- incur increased costs as a result of continued operations as a public company.

To become and remain profitable, we must develop and eventually commercialize a product or products with significant market potential. This will require us to be successful in a range of challenging activities, including completing clinical trials of our product candidates, successfully developing companion diagnostics, obtaining marketing approval from the FDA and from comparable foreign authorities for these product candidates and manufacturing, marketing and selling those products for which we may obtain marketing approval. We may never succeed in these activities and, even if we do, may never generate revenues that are significant or even sufficient to achieve profitability. If we do achieve profitability, we may not be able to sustain or increase profitability on a quarterly or annual basis. Our failure to become and remain profitable could decrease the value of the company and could impair our ability to raise capital, maintain our research and development efforts, expand our business or continue our operations. A decline in the value of our company could also cause you to lose all or part of your investment.

***We are a clinical-stage company with no approved products and no historical product revenue. Consequently, we expect that our financial and operating results will vary significantly from period to period.***

We are a clinical-stage company that has incurred losses since our inception and expect to continue to incur substantial losses in the foreseeable future. Biopharmaceutical product development is a highly speculative undertaking and involves a substantial degree of uncertainty. We expect our actual financial condition and operating results to fluctuate significantly from quarter-to-quarter or year-to-year due to a variety of factors, many of which are beyond our control. Factors relating to our business that may contribute to these fluctuations include:

- the success of our clinical trials through all phases of clinical development;
- delays in the commencement, enrollment and timing of clinical trials;
- our ability to secure and maintain collaborations, licensing or other arrangements for the future development and/or commercialization of our product candidates, as well as the terms of those arrangements;
- our and our collaborators' ability to develop and validate companion diagnostics for our product candidates;
- our ability to obtain, as well as the timeliness of obtaining, additional funding to develop our product candidates;
- the results of clinical trials or marketing applications for product candidates that may compete with our product candidates;
- competition from existing products or new products that may receive marketing approval;
- potential side effects of our product candidates that could delay or prevent approval or cause an approved drug to be taken off the market;
- any delays in regulatory review and approval of our product candidates;
- our ability to identify and develop additional product candidates;
- the ability of patients or healthcare providers to obtain sufficient coverage and adequate reimbursement for our products;
- our ability, and the ability of third parties such as contract research organizations, or CROs, to adhere to clinical trial and other regulatory requirements;
- the ability of third-party manufacturers to manufacture our product candidates and key ingredients needed to conduct clinical trials and, if approved, successfully commercialize our products;
- the costs to us, and our ability as well as the ability of any third-party collaborators, to obtain, maintain and protect our intellectual property rights;
- costs related to and outcomes of any future intellectual property litigation;
- our ability to adequately support future growth;
- our ability to attract and retain key personnel to manage our business effectively;
- changes in governmental regulations, healthcare policy, pricing and reimbursement systems and our ability to set and maintain prices in the United States and other territories; and
- our ability to build our finance infrastructure and, to the extent required, improve our accounting systems and controls.

Accordingly, the likelihood of our success must be evaluated in light of many potential challenges and variables associated with a clinical-stage company, many of which are outside of our control, and past operating or financial results should not be relied on as an indication of future results. Fluctuations in our operating and financial results could cause our share price to decline. It is possible that in some future periods, our operating results will be above or below the expectations of securities analysts or investors, which could also cause our share price to decline.

***Our limited operating history may make it difficult for you to evaluate the success of our business to date and to assess our future viability.***

We are a clinical-stage company with a limited operating history. Our operations to date have been limited to organizing and staffing our company, business planning, raising capital, identifying and acquiring potential product candidates, undertaking preclinical, clinical and regulatory development of our product candidates and conducting pre-commercial and diagnostic related activities for tipifarnib. We have not yet demonstrated our ability to successfully complete clinical trials or the development of companion diagnostics in support of FDA approval, obtain marketing approvals, manufacture a product at commercial scale, or arrange for a third-party to do so on our behalf, or conduct sales and marketing activities necessary for successful product commercialization. Medicines, on average, take 10 to 15 years to be developed from the time they are discovered to the time they receive marketing approval. Consequently, any predictions you make about our future success or viability based on our short operating history to date may not be as accurate as they could be if we had a longer operating history.

In addition, we may encounter unforeseen expenses, difficulties, complications, delays and other known and unknown factors. We may in the future need to transition from a company with a research and development focus to a company capable of supporting commercial activities. We may not be successful in such a transition.

***We will need to obtain substantial additional capital in connection with our continuing operations. Raising additional capital may cause dilution to our stockholders, restrict our operations or require us to relinquish certain rights to our technologies or product candidates.***

Until such time, if ever, as we can generate sufficient product revenues to fund our operations, we will need to raise additional capital in connection with our continuing operations. We expect to finance our cash needs through a combination of equity offerings and debt financings. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the ownership interest of our stockholders will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect rights of our stockholders as a common stockholder. Debt financing and preferred equity financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends.

In March 2019, we entered into an at-the-market issuance sales agreement with SVB Leerink LLC and Stifel, Nicolaus & Company, Incorporated, or 2019 ATM facility, under which we may offer and sell, from time to time, at our sole discretion, shares of our common stock having an aggregate offering price of up to \$75.0 million. We have not yet sold any shares of our common stock under the 2019 ATM facility.

In November 2018, we entered into a loan and security agreement, or the SVB Loan Agreement, with Silicon Valley Bank, or the Lender, providing for up to \$20.0 million in a series of term loans. Under the terms of the SVB Loan Agreement, the Lender has initially provided us with a term loan of \$7.5 million, with an additional \$12.5 million available at any time until May 1, 2020. Other than our term loan facility, we do not have any committed external source of funds. While any amounts are outstanding under our term loan facility, we are subject to affirmative and restrictive covenants, including covenants regarding delivery of financial statements, maintenance of inventory, payment of taxes, maintenance of insurance, dispositions of property, business combinations or acquisitions, incurrence of additional indebtedness and transactions with affiliates, among other customary covenants. If we default under our term loan facility, the Lender may accelerate our repayment obligations and take control of our pledged assets, potentially requiring us to renegotiate our agreement on terms less favorable to us or to immediately cease operations. Further, if we are liquidated, the Lender's right to repayment would be senior to the rights of the holders of our common stock to receive any proceeds from the liquidation. The Lender could declare a default under our term loan facility upon the occurrence of an event of default, which includes our failure to satisfy our payment obligations under the SVB Loan Agreement, the breach of certain of our other covenants under the SVB Loan Agreement or the occurrence of a material adverse change, thereby requiring us to repay the loan immediately or to attempt to reverse the declaration of default through negotiation or litigation. Any declaration by the Lender of an event of default could significantly harm our business and prospects and could cause the price of our common stock to decline.

We cannot be certain that additional funding will be available on acceptable terms, or at all. Subject to limited exceptions, our term loan facility also prohibits us from incurring indebtedness without the prior written consent of the Lender. If we are unable to raise additional funds when needed, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts.

## Risks Related to the Discovery and Development of Our Product Candidates

***We are highly dependent on the success of our lead product candidate, tipifarnib, which is still in clinical development, and we cannot give any assurance that tipifarnib or any other product candidates will receive regulatory approval, which is necessary before they can be commercialized.***

Our future success is highly dependent on our ability to obtain regulatory approval for, and then successfully commercialize, our lead product candidate, tipifarnib. Our other product candidates are in earlier stages of development. Our business depends entirely on the successful development and commercialization of our product candidates. We have not completed the development of any product candidates; we currently generate no revenues from sales of any product, and we have not demonstrated that we can successfully develop a marketable product.

Tipifarnib will require additional clinical development, evaluation of clinical, preclinical and manufacturing activities, regulatory approval in one or more jurisdictions, substantial investment, access to sufficient commercial manufacturing capacity and significant marketing efforts before we can generate any revenues from product sales. The FDA has also informed us that an approved companion diagnostic is required in order to obtain approval of tipifarnib in HRAS mutant HNSCC. Companion diagnostics are subject to regulation as medical devices and must be separately approved for marketing by the FDA. We are not permitted to market or promote tipifarnib, or any other product candidates before we receive regulatory approval from the FDA or comparable foreign regulatory authorities, and we may never receive such regulatory approvals. Although the scope of regulatory approval is similar in other countries, in some countries there are additional regulatory requirements and potential regulatory risks and we cannot predict success in these jurisdictions.

We initiated our first registration-directed clinical trial in patients with relapsed or refractory HRAS mutant HNSCC in November 2018. There is no guarantee that this trial will be completed on time or at all. Prior to receiving approval to commercialize tipifarnib or future product candidates, if any, in the United States or internationally, we must demonstrate to the satisfaction of the FDA and other regulatory authorities, that such product candidates are safe and effective for their intended uses. The results from preclinical studies and clinical trials can be interpreted in different ways, and the favorable results from previous trials of a product candidate may not be replicated in subsequent clinical trials. Even if we believe the preclinical or clinical data are promising, such data may not be sufficient to support approval by the FDA and other regulatory authorities. We maintain frequent, ongoing dialogue with the FDA and other regulatory bodies regarding our clinical trial design, including the patient selection criteria, dosing plan and statistical analysis plan. There is a risk that the FDA or other regulatory agencies could at any time raise objections to the design or conduct of our clinical trials. Any such objections could delay the initiation or completion of our registration-directed clinical trial. Although we believe from our discussions with the FDA and the minutes from our end-of-Phase 2 meeting with the FDA, that if AIM-HN is positive, there is the potential for accelerated approval of tipifarnib for the treatment of patients with relapsed or refractory HNSCC who harbor the HRAS mutation, the FDA has substantial discretion in the approval process and may not grant approval based on data from AIM-HN and RUN-HN. Even if the trial results are positive, we cannot guarantee that the FDA or foreign regulatory authorities will interpret the results as we do. There is also no guarantee that data from SEQ-HN will support any potential marketing application for tipifarnib in HRAS mutant HNSCC. If the results of the trial are not satisfactory to the FDA or foreign regulatory authorities for support of a marketing application, we may be required to expend significant additional resources to conduct additional trials in support of potential approval of tipifarnib.

We have not previously submitted an NDA to the FDA, or similar product approval filings to comparable foreign authorities, or received marketing approval for any product candidate, and we cannot be certain that tipifarnib will be successful in clinical trials or receive regulatory approval for any indication. We cannot anticipate whether or when we will seek regulatory review of tipifarnib for any other indications. If we do not receive regulatory approvals for and successfully commercialize tipifarnib on a timely basis or at all, we may not be able to continue our operations. Even if we successfully obtain regulatory approvals to market tipifarnib, our revenues will be dependent, in part, on our collaborator's ability to commercialize the companion diagnostic as well as the size of the markets in the territories for which we gain regulatory approval and have commercial rights. If the market opportunities for the treatment of HRAS mutant HNSCC and other diseases are not as significant as we estimate, our business and prospects may be harmed.

***Our discovery, preclinical and clinical development is focused on the development of targeted therapeutics for patients with genetically defined cancers, which is a rapidly evolving area of science, and the approach we are taking to discover and develop drugs may never lead to marketable products.***

The discovery and development of targeted therapeutics for patients with genetically defined cancers, and the scientific discoveries that form the basis for our efforts to discover and develop product candidates, are a relatively new and rapidly evolving area of science. The scientific evidence to support the feasibility of developing product candidates based on these discoveries is both preliminary and limited. The patient populations for our product candidates are not completely defined but are substantially smaller than the general treated cancer population, and patients will need to be screened and identified in order to be eligible for our therapies. Successful identification of patients is dependent on several factors, including screening a sufficient number of patients to identify whether they harbor a particular genetic alteration or expression level, achieving certainty as to how specific genetic alterations or expression levels respond to our product candidates and developing companion diagnostics to identify such genetic alterations or expression levels. Furthermore, even if we are successful in identifying patients, we cannot be certain that the resulting patient populations will be large enough to allow us to successfully commercialize any products for which we are able to obtain marketing approval and achieve profitability. Therefore, we do not know if our approach of treating patients with genetically defined cancers will be successful. If our approach is unsuccessful, our business will suffer.

In order to execute on our strategy of advancing the clinical development of tipifarnib, we have designed our clinical trials of tipifarnib, and expect to design future clinical trials of tipifarnib and our other product candidates, to include patients who harbor a particular attribute such as a particular genetic alteration, tumor histology or expression level that we believe contribute to or are associated with particular cancer subsets. Our goal in doing this is to enroll patients who have the highest probability of responding to our product candidate and in our proof-of-concept Phase 2 clinical trials, to show early and statistically significant evidence of clinical efficacy. Potential molecular biomarkers we have identified in retrospective analyses of data from clinical trials of tipifarnib in certain cancer indications may not be prospectively validated as biomarkers of tipifarnib activity in our ongoing Phase 2 clinical trials or future clinical trials we may conduct in these indications. If we are unable to identify molecular or genetic alterations, or biomarkers, that are predictive of response to our product candidates, or we are unable to include patients who harbor the applicable genetic alterations or expression levels in our clinical trials, or if our product candidates fail to work as we expect, our ability to assess the therapeutic effect, seek participation in FDA expedited review and approval programs, including Breakthrough Therapy, Fast Track Designation, Priority Review and Accelerated Approval, or otherwise to seek to accelerate clinical development and regulatory timelines, could be compromised, resulting in longer development times, larger clinical trials and a reduced likelihood of obtaining regulatory approval.

***We may find it difficult to enroll patients in our clinical trials for tipifarnib. Difficulty in enrolling patients could delay or prevent clinical trials of our product candidates.***

Identifying and qualifying patients to participate in clinical studies of our product candidates is critical to our success. The timing of our clinical studies depends in part on the speed at which we can recruit patients to participate in testing our product candidates, and we may experience delays in our clinical trials if we encounter difficulties in enrollment.

In addition to the potentially small populations for our clinical trials of tipifarnib, the eligibility criteria of our clinical trials will further limit the pool of available trial participants as we will require that patients have specific characteristics that we can measure or to assure their disease is either severe enough or not too advanced to include them in a trial. Additionally, the process of finding and diagnosing patients may prove costly. For example, many physicians who treat HNSCC patients do not routinely screen their patients for genetic mutations, such as oncogenic mutations present in the HRAS gene. To seek to address these limitations, we have contracted with third-party laboratories to facilitate the genetic screening of patients for our clinical sites. However, there is no guarantee that these efforts will be effective.

We also may not be able to identify, recruit and enroll a sufficient number of patients to complete our clinical studies because of the perceived risks and benefits of the product candidate under trial including the number and frequency of trial required procedures and tests, the availability and efficacy of competing therapies and clinical trials, the proximity and availability of clinical trial sites for prospective patients, and the patient referral practices of physicians. For example, with the approvals of immune therapy agents nivolumab and pembrolizumab, many HNSCC patients are now being treated with one of these agents after failure of first-line treatments such as chemotherapy and/or cetuximab. If patients, or the physicians treating them, are unwilling or unable to participate in our studies for any reason, the timeline for recruiting patients, conducting studies, and obtaining regulatory approval of potential products may be delayed.

Additionally, in estimating the frequency of biomarkers, such as the frequency of HRAS mutations in patients with HNSCC, we rely on data published in the scientific literature as well as our experience and that of our collaborators. Initial studies on the frequency of HRAS mutation in HNSCC were conducted in a mostly HPV negative population that does not reflect the increase in HPV-related HNSCC in the United States. The technologies used to identify mutations in published datasets may be different from the technologies we are using currently, which may make it more difficult to compare results across clinical trials. Moreover, sample quality in academic studies of molecular biomarkers may not reflect standard clinical practice that is focused on pathological diagnosis. We are using a minimum tumor HRAS mutant allele frequency of 20% in our AIM-HN clinical trial. Data from TCGA, HNSCC, provisional, indicate that patients with an HRAS mutant allele frequency greater than 20% represent approximately 5% of the overall HNSCC population. If the incidence of tumor HRAS mutant allele frequency equal to or greater than the clinical cutoff as detected in our AIM-HN clinical trial is significantly different from either the TCGA database or our Phase 2 clinical trial experience, we may be required to screen more HNSCC patients to identify those patients with HRAS mutations who may be candidates for our clinical trial. Even if patients carrying HRAS mutations are identified, interest to participate in clinical trials may be low and potential trial subjects may be located at too great a distance to participate at our clinical trial sites. Any delay or failure by us or third-party collaborators to screen patients or identify patients with HRAS mutations for enrollment in our AIM-HN clinical trial and other ongoing trials could delay or prevent us from completing our clinical trials which could prevent us from obtaining regulatory approval or commercializing tipifarnib on a timely or profitable basis, or at all.

If we experience delays in the completion of, or termination of, any clinical trial of our product candidates, the commercial prospects of our product candidates may be harmed, and our ability to generate product revenue from any of these product candidates could be delayed or prevented. In addition, any delays in completing our clinical trials will increase our costs, slow down our product candidate development and approval process, and jeopardize our ability to commence product sales and generate revenue. Any of these occurrences may harm our business, financial condition, and prospects significantly. In addition, many of the factors that cause, or lead to, a delay in the commencement or completion of clinical trials may also ultimately lead to the denial of regulatory approval of our product candidates, including:

- unforeseen safety issues or adverse side effects;
- failure of our companion diagnostics to identify patients;
- modifications to protocols of our clinical trials resulting from the FDA or comparable foreign regulatory authorities or IRB decisions; and
- ambiguous or negative interim results of our clinical trials or results that are inconsistent with earlier results.

***Clinical drug development involves a lengthy and expensive process with an uncertain outcome. The results of preclinical studies and early clinical trials of our product candidates may not be predictive of the results of subsequent clinical trials, and preliminary or interim results of a clinical trial do not necessarily predict final results. We may incur additional costs or experience delays in completing, or ultimately be unable to complete, the development and commercialization of our product candidates.***

The risk of failure for our product candidates is high. Before obtaining marketing approval from regulatory authorities for the sale of any product candidate, we must conduct extensive preclinical and clinical testing to demonstrate the safety and efficacy of our product candidates in humans. This testing is expensive, difficult to design and implement and can take many years to complete, and its outcome is inherently uncertain. Failure can occur at any time during the clinical trial process. Further, the results of preclinical studies and early clinical trials of our product candidates may not be predictive of the results of subsequent clinical trials, and preliminary or interim results of a clinical trial do not necessarily predict final results. For example, the preliminary data we have presented from our positive Phase 2 clinical trial of tipifarnib in HRAS mutant HNSCC, may not predict the results of AIM-HN or any other later-stage clinical trials we may conduct. The primary endpoint of AIM-HN is ORR as determined using RECIST 1.1 criteria and as determined by independent radiological review. Independent radiological review refers to a formal process whereby third-party radiologists who are not affiliated with the drug development program are engaged to provide an independent assessment of the primary radiological images. All of our patient responses disclosed to date in our ongoing Phase 2 proof-of-concept clinical trial in HRAS mutant HNSCC have been assessed by the trial investigators. In contrast to independent radiology review, investigator assessed response is performed by investigators or their affiliated radiology colleagues who may be aware of the trial treatment, patient history or other information that could impact their choices in applying the rules and conventions of RECIST 1.1. Conversely, independent radiology reviewers have limited access to non-radiographic clinical information or other ancillary information, which could have informed their application of RECIST 1.1 response rules. The published literature demonstrates a consistent decrease in response rate when investigator assessed response rates are verified by independent radiology review. Furthermore, HNSCC lesions are difficult to assess due to the complexity of the anatomic locations. For AIM-HN we will be

identifying trial subjects with measurable disease that meets criteria for RECIST 1.1 target lesions by local radiology review. This may further reduce the number of subjects eligible to join AIM-HN within the small pool of HRAS mutant HNSCC patients.

Results from clinical trials conducted at a single clinical site or a small number of clinical sites, may not be predictive of results from additional clinical sites or from subsequent clinical trials. Moreover, preclinical and clinical data are often susceptible to varying interpretations and analyses, and many companies that have believed their product candidates performed satisfactorily in preclinical studies and clinical trials have nonetheless failed to obtain marketing approval of their products. For instance, the FDA previously issued a non-approval letter to Janssen for tipifarnib as a treatment for elderly, untreated AML in June 2005. It is impossible to predict with certainty if or when any of our product candidates will prove effective or safe in humans or will receive regulatory approval.

We may experience delays in our clinical trials and we do not know whether ongoing or planned clinical trials will begin or enroll patients on time, need to be redesigned or be completed on schedule, if at all. If the FDA or comparable foreign regulatory authorities, or IRBs have comments on our study plans for our clinical trials of tipifarnib or any of our other product candidates, that we are required to address, such studies may be delayed, or may not start at all. Clinical trials may be delayed, suspended or prematurely terminated at any time by us or by the FDA or other similar regulatory agency if it is determined at any time that patients may be or are being exposed to unacceptable health risks, including risk of death, or if compounds are not manufactured in compliance with cGMP regulations or with acceptable quality. We recently received a partial clinical hold from the FDA on our KO-947 Phase 1 clinical trial and there can be no assurance that the FDA will remove the hold or that the FDA or other similar regulatory agency will not put any of our other product candidates on clinical hold in the future. We may experience numerous unforeseen events during, or as a result of, clinical trials that could delay or prevent our ability to receive marketing approval or commercialize our product candidates. Clinical trials may be delayed, suspended or prematurely terminated because costs are greater than we anticipate or for a variety of reasons, such as:

- failure to generate sufficient preclinical, toxicology or other *in vivo* or *in vitro* data to support the initiation or continuation of clinical trials;
- delay or failure in reaching agreement with the FDA or a comparable foreign regulatory authority on a clinical trial design that we are able to execute;
- delay or failure in obtaining authorization to commence a clinical trial or inability to comply with conditions imposed by a regulatory authority regarding the scope or design of a clinical trial;
- delays in reaching, or failure to reach, agreement on acceptable clinical trial contracts or clinical trial protocols with prospective clinical trial sites;
- inability, delay or failure in identifying and maintaining a sufficient number of clinical trial sites, many of which may already be engaged in other clinical programs;
- delay or failure in recruiting and enrolling suitable subjects to participate in a clinical trial;
- delay or failure in having subjects complete a clinical trial or return for post-treatment follow-up;
- delay or failure in determining an acceptable dose and schedule for a product candidate in a clinical trial;
- clinical sites and investigators deviating from clinical trial protocol, failing to conduct the clinical trial in accordance with regulatory requirements or dropping out of a clinical trial;
- lack of adequate funding to continue the clinical trial, including the incurrence of unforeseen costs due to enrollment delays, requirements to conduct additional clinical studies and increased expenses associated with the services of our CROs and other third parties;
- clinical trials of our product candidates may produce negative or inconclusive results, and we may decide, or regulators may require us, to redesign or modify our clinical trial protocols, conduct additional clinical trials or abandon product development programs;
- the number of patients required for clinical trials of our product candidates may be larger than we anticipate, enrollment in these clinical trials may be slower than we anticipate or participants may drop out of these clinical trials at a higher rate than we anticipate;
- we may experience delays or difficulties in the enrollment of patients whose tumors harbor the specific genetic alterations that our product candidates are designed to target;

- our third-party contractors may fail to comply with regulatory requirements or meet their contractual obligations to us in a timely manner, or at all;
- we may have difficulty partnering with experienced CROs that can screen for patients whose tumors harbor the applicable genetic alterations and run our clinical trials effectively;
- regulators or IRBs may require that we or our investigators suspend or terminate clinical research for various reasons, including noncompliance with regulatory requirements or a finding that the participants are being exposed to unacceptable health risks;
- the supply or quality of our product candidates or other materials necessary to conduct clinical trials of our product candidates may be insufficient or inadequate; or
- there may be changes in governmental regulations or administrative actions.

If we are required to conduct additional clinical trials or other testing of our product candidates beyond those that we currently contemplate, if we are unable to successfully complete clinical trials of our product candidates or other testing, if the results of these clinical trials or tests are not positive or are only modestly positive or if there are safety concerns, we may:

- be delayed in obtaining marketing approval for our product candidates;
- not obtain marketing approval at all;
- obtain approval for indications or patient populations that are not as broad as intended or desired;
- obtain approval with labeling that includes significant use or distribution restrictions or safety warnings that could reduce the potential market for our products or inhibit our ability to successfully commercialize our products;
- be subject to additional post-approval restrictions and/or testing requirements; or
- have the product removed from the market after obtaining marketing approval.

Our product development costs will also increase if we experience delays in testing or marketing approvals. We do not know whether any of our preclinical studies or clinical trials will need to be restructured or will be completed on schedule, or at all. Significant preclinical or clinical trial delays also could shorten the periods during which we may have the exclusive right to commercialize our product candidates or allow our competitors to bring products to market before we do and impair our ability to successfully commercialize our product candidates and may harm our business and results of operations.

***Preclinical and clinical testing of tipifarnib that has been conducted to date may not have been performed in compliance with applicable regulatory standards, which could lead to increased costs or material delays for their further development.***

We licensed the rights to develop our lead product candidate, tipifarnib, from Janssen in December 2014, and the development of tipifarnib prior to our license was conducted wholly by Janssen or any third parties with which it had contracted. As a result, we were not involved with nor did we have any control over any of those development activities. Because we had no input on Janssen's development activities relating to tipifarnib, we may discover that certain elements of the clinical development or manufacturing activities that Janssen performed were not performed in compliance with applicable regulatory standards or have otherwise been deficient, particularly relative to current requirements as development of tipifarnib began in the 1990s. Any such deficiency in the prior development of tipifarnib may adversely affect our ability to obtain regulatory approval for tipifarnib.

***Our product candidates may cause serious adverse events or have unacceptable side effects that could delay, limit or prevent their development.***

If our product candidates are associated with unacceptable side effects in preclinical or clinical trials or have characteristics that are unexpected, we may need to interrupt, delay or abandon their development or limit development to more narrow uses or subpopulations in which the undesirable side effects or other characteristics are less prevalent, less severe or more acceptable from a risk-benefit perspective.

Tipifarnib has been studied in more than 5,000 oncology patients and was generally well tolerated and exhibited a manageable side effect profile. The most common hematologic adverse events of any grade were neutropenia, or low white blood cell count, anemia and thrombocytopenia, or low platelet count. The most common non-hematologic adverse events of any grade were gastrointestinal system disorders such as nausea, anorexia, diarrhea and vomiting, fatigue and rash. Treatment

discontinuation across the prior tipifarnib clinical studies has been in the range of approximately 20-25%. We are exploring a range of doses and dosing schedules in our ongoing Phase 2 clinical trials. The side effects observed so far in our ongoing Phase 2 clinical trials of tipifarnib have been generally consistent with the prior observations; however, there is no guarantee that additional or more severe side effects will not be identified through further clinical studies, including our AIM-HN clinical trial. Rights to develop tipifarnib in virology indications have been granted by Janssen to EB Pharma LLC, or EB Pharma, a subsidiary of Eiger BioPharmaceuticals. Undesirable side effects may be identified in clinical trials that EB Pharma may conduct in virology indications, which may negatively impact the development, commercialization or potential value of tipifarnib.

We are currently evaluating KO-947 in a Phase 1 clinical trial in patients with non-hematological malignancies and are conducting a Phase 1/2 clinical trial to evaluate KO-539 in relapsed or refractory AML. Any observed, drug-related side effects could affect the ability of patients to tolerate potentially therapeutically effective doses of the drug, which in turn could affect patient recruitment or the ability of enrolled patients to complete the clinical trial or result in potential product liability claims. Additionally, if results of our ongoing or planned clinical trials for tipifarnib, KO-947 or KO-539 reveal an unacceptable frequency and severity of serious adverse events or side effects, our trials could be suspended or terminated and the FDA or comparable foreign regulatory agencies could require us to cease further development of, or deny approval of, our product candidates for any or all targeted indications. Many compounds developed in the biopharmaceutical industry that initially showed promise in early-stage testing for treating cancer have later been found to cause side effects that prevented further development of those compounds. Any of these occurrences may significantly harm our business, financial condition and prospects.

***We may expend our limited resources to pursue a specific product candidate or indication and fail to capitalize on product candidates or indications that may be more profitable or for which there is a greater likelihood of success.***

Because we have limited financial and managerial resources, we must focus on a limited number of research programs and product candidates and on specific indications. As a result, we may forego or delay pursuit of opportunities with other product candidates or for other indications that later prove to have greater commercial potential. Our resource allocation decisions may cause us to fail to capitalize on viable commercial products or profitable market opportunities. Our spending on current and future discovery and preclinical development programs and product candidates for specific indications may not yield any commercially viable products.

***Failure by us or our third-party collaborators to successfully develop and commercialize a diagnostic testing platform for use by oncologists could harm our ability to develop and commercialize our product candidates.***

One of the central elements of our business strategy is to screen and identify subsets of patients with molecular or genetic alterations who may derive meaningful clinical benefit from our product candidates. Successful identification of these patient subsets depends on the development of sensitive, accurate and cost-effective molecular and other diagnostic tests and the widespread adoption and use of these tests at clinical sites to screen a sufficient number of patients to identify whether they are appropriate candidates for treatment with one of our product candidates.

As we do not have in-house diagnostic testing capabilities, we rely extensively on third-party collaborators for the development and commercialization of these diagnostic tests. Our goal is to provide a sensitive, accurate and cost-effective diagnostic testing solution for oncologists, whereby they can obtain molecular testing data that will help them to identify whether their patients are eligible as candidates for enrollment in our clinical trials. Moreover, we anticipate that, if and when tipifarnib receives marketing approval, a significant percentage of patients will be identified using diagnostic testing platforms such as NGS testing rather than the qPCR-based companion diagnostic assay we and our third-party collaborators are currently developing.

We and our third-party collaborators may encounter difficulties in developing and obtaining approval for these diagnostic tests. We may also experience difficulties in having these diagnostic tests adopted and used at clinical sites, both during the clinical development phase and if and when approved for commercial sale. Any delay or failure by us or third-party collaborators to develop or obtain regulatory approval of a these diagnostic tests or any failure in having a sufficient number of clinical sites adopt and use these diagnostic tests could delay or prevent approval of our product candidates, which may prevent us from completing our clinical trials or commercializing our products on a timely or profitable basis, if at all.

***Failure to successfully validate, develop and obtain regulatory approval for companion diagnostics for our product candidates could harm our drug development strategy and operational results.***

As one of the central elements of our business strategy and clinical development approach, we seek to screen and identify subsets of patients with molecular or genetic alterations who may derive meaningful clinical benefit from our product candidates. To achieve this, certain of our programs will require the development and commercialization of a companion diagnostic for marketing approval. We rely on third-party collaborators for development of companion diagnostics for use in clinical trials and, if successful, will rely on third-party collaborators for development of companion diagnostics for commercialization of our product candidates. Companion diagnostics are developed in conjunction with clinical programs for the associated product and are subject to regulation as medical devices. For example, for tipifarnib for the treatment of HRAS mutant HNSCC, we and our third-party collaborators have obtained an IDE for use of a qPCR-based assay to identify patients with HRAS mutant tumors as the companion diagnostic in AIM-HN in this indication. Patients can also be enrolled based on information on the patients' tumor HRAS mutation status obtained by the clinical sites from NGS panels used by the site or third parties to characterize patients' tumors. Additionally, we have introduced a minimum tumor HRAS mutant allele frequency as an entry criterion for enrollment in AIM-HN. The results of NGS panels used by our clinical sites may not be accurate or consistent across sites and may not be consistent with results obtained from our companion diagnostic, and our development of tipifarnib or a companion diagnostic may be delayed or complicated as a result.

If the results of our other Phase 2 clinical trials of tipifarnib or other clinical trials are positive and we validate our biomarker hypotheses in those clinical trials, we plan to partner development and validation of companion diagnostic tests to aid in the selection of patients in any subsequent clinical trials we decide to pursue for those product candidates and to prepare and submit an application for IDE for use of the companion diagnostic in the clinical trials, when necessary. Any delay or failure by us or our third-party collaborators to develop or obtain IDE approval for use of companion diagnostics in our clinical trials could delay or prevent us from commencing or completing our clinical trials. Companion diagnostics are subject to regulation by the FDA and comparable foreign regulatory authorities as medical devices and require separate clearance or approval prior to their commercialization. To date, the FDA has required a PMA application of most companion diagnostics for cancer therapies. The FDA has informed us that an approved companion diagnostic is required in order to obtain marketing approval of tipifarnib in HRAS mutant HNSCC. We and our third-party collaborators may encounter difficulties in developing and obtaining approval for these companion diagnostics. Any delay or failure by us or third-party collaborators to develop or obtain regulatory approval of a companion diagnostic could delay or prevent approval of our product candidates. The approval of a companion diagnostic as part of the product label will limit the use of the product candidate to only those patients who express the specific genetic alteration it was developed to detect. We may also experience delays in developing a sustainable, reproducible and scalable manufacturing process or transferring that process to commercial partners or negotiating insurance reimbursement plans, all of which may prevent us from completing our clinical trials or commercializing our products on a timely or profitable basis, if at all.

***Failure by us or our third-party collaborators to successfully commercialize companion diagnostics developed for use with our product candidates could harm our ability to commercialize these product candidates.***

Even if we or our companion diagnostic collaborators successfully obtain regulatory approval for the companion diagnostics for our product candidates, our collaborators:

- may not perform their obligations as expected;
- may not pursue commercialization of companion diagnostics for our therapeutic product candidates that achieve regulatory approval;
- may elect not to continue or renew commercialization programs based on changes in the collaborators' strategic focus or available funding, or external factors, such as an acquisition, that divert resources or create competing priorities;
- may not commit sufficient resources to the marketing and distribution of such product or products; and
- may terminate their relationship with us.

Additionally, we or our collaborators may encounter production difficulties that could constrain the supply of the companion diagnostics, affect the ease of use, affect the price or have difficulties gaining acceptance of the use of the companion diagnostics in the clinical community.

If companion diagnostics for use with our product candidates fail to gain market acceptance, our ability to derive revenues from sales of our product candidates could be harmed. If insurance reimbursement to the laboratories who perform the companion diagnostic tests is inadequate, utilization may be low, and patient tumors may not be comprehensively screened for the presence of the genetic markers that predict response to our product candidates. If we or our collaborators fail to commercialize these companion diagnostics, we may not be able to enter into arrangements with another diagnostic company to obtain supplies of an alternative diagnostic test for use in connection with our product candidates or do so on commercially reasonable terms, which could adversely affect and delay the development or commercialization of our product candidates.

### **Risks Related to Our Dependence on Third Parties**

***We rely on third-party contractors and organizations to conduct our clinical trials, and those third parties may not perform satisfactorily, including failing to meet deadlines for the completion of such clinical trials.***

We rely, and expect to continue to rely, on third-party contractors, clinical data management organizations, independent contractors, medical institutions and clinical investigators to support our preclinical development activities and conduct our clinical trials, including our registration-directed clinical trial of tipifarnib in HRAS mutant HNSCC, our other ongoing Phase 2 clinical trials of tipifarnib, our Phase 1 clinical trial of KO-947 and Phase 1/2 clinical trial of KO-539 and any other subsequent clinical trials of tipifarnib and our other product candidates. These agreements may terminate for a variety of reasons, including a failure to perform by the third parties. If we are required to enter into alternative arrangements, our product development activities could be delayed.

We compete with many other companies, some of which may be our business competitors, for the resources of these third parties. Large pharmaceutical companies often have significantly more extensive agreements and relationships with such third-party providers, and such third-party providers may prioritize the requirements of such large pharmaceutical companies over ours. The third parties on whom we rely may terminate their engagements with us at any time, which may cause delay in the development and commercialization of our product candidates. If any such third-party terminates its engagement with us or fails to perform as agreed, we may be required to enter into alternative arrangements, which could result in significant cost and delay to our product development program. Moreover, our agreements with such third parties generally do not provide assurances regarding employee turnover and availability, which may cause interruptions in the research on our product candidates by such third parties.

Our reliance on these third parties to conduct our clinical trials reduces our control over these activities but does not relieve us of our responsibilities. For example, we will remain responsible for ensuring that each of our clinical trials is conducted in accordance with the general investigational plan and protocols for the clinical trial. Moreover, the FDA and other regulatory authorities require us to comply with GCP guidelines for conducting, recording and reporting the results of clinical trials to assure that data and reported results are credible and accurate and that the rights, integrity and confidentiality of clinical trial participants are protected. We are also required to register ongoing clinical trials and post the results of completed clinical trials on a government-sponsored database, ClinicalTrials.gov, within specified timeframes. Failure to do so can result in fines, adverse publicity and civil and criminal sanctions.

Additionally, we rely substantially on third-party data managers for our clinical trial data. There is no assurance that these third parties will not make errors in the design, management or retention of our data or data systems. There is no assurance that these third parties will pass FDA or other regulatory audits, which could delay or prevent regulatory approval.

If these third parties do not successfully carry out their contractual duties, meet expected deadlines or conduct our clinical trials in accordance with regulatory requirements or our stated protocols, we will not be able to obtain, or may be delayed in obtaining, marketing approvals for our product candidates and will not be able to, or may be delayed in our efforts to, successfully commercialize our product candidates.

***We depend on third parties for the manufacture of our product candidates for preclinical and clinical testing and expect to continue to do so for commercialization. This reliance on third parties increases the risk that we will not have sufficient quantities of our product candidates or products at an acceptable cost and quality, which could delay, prevent or impair our development or commercialization efforts.***

We do not own or operate facilities for the manufacture of our product candidates, and we do not have any manufacturing personnel. We currently have no plans to build our own clinical or commercial scale manufacturing capabilities. We rely, and expect to continue to rely, on third parties for the manufacture of clinical supplies of tipifarnib and

our other product candidates for preclinical and clinical testing. We will rely on third parties as well for commercial manufacture if any of our product candidates receive marketing approval. This reliance on third parties increases the risk that we will not have sufficient quantities of our product candidates or products or such quantities at an acceptable cost or quality, which could delay, prevent or impair our development or commercialization efforts. We also expect to rely on other third parties to package and label the drug product as well as to store and distribute drug supplies for our clinical trials.

The manufacture of pharmaceutical products is complex and requires significant expertise and capital investment, including the development of drug formulation and manufacturing techniques and process controls. Manufacturers of APIs and pharmaceutical products often encounter difficulties in production, particularly in scaling up and validating initial production and absence of contamination. These problems include difficulties with production costs and yields, quality control, including stability of the product, quality assurance testing, operator error, shortages of qualified personnel, as well as compliance with strictly enforced federal, state and foreign regulations. Furthermore, if contaminants are discovered in our products or in the manufacturing facilities in which our products are made, such manufacturing facilities may need to be closed for an extended period of time to investigate and remedy the contamination. We have developed a modified drug product manufacturing process and a modified tablet formulation of tipifarnib we are using in our AIM-HN clinical trial. Even though our Phase 1 relative bioavailability study indicated pharmacokinetic comparability between the original and the modified tablets, we cannot be certain that in our AIM-HN or other clinical trials we will not observe differences between the tablets which could impact clinical outcomes.

If we are unable to develop formulations of our product candidates with acceptable stability and sterility characteristics, or experience an unexpected delay or loss of supply of any of our product candidates for any reason, whether as a result of manufacturing, supply or storage issues or otherwise, our business may be harmed and we may experience delays, disruptions, suspensions or terminations of, or we may be required to restart or repeat, any pending or ongoing clinical trials. Although we generally do not begin a clinical trial unless we believe we have a sufficient supply of a product candidate to complete the clinical trial, we may be required to manufacture additional supplies of our product candidates to the extent our estimates of the amounts required prove inaccurate, we suffer unexpected losses of product candidate supplies, or to the extent that we are required to have fresh product candidate supplies manufactured to satisfy regulatory requirements or specifications. Any significant delay or discontinuation in the supply of a product candidate, or the raw material components thereof, due to the need to replace a supplier, contract manufacturer or other third-party manufacturer, could considerably harm our business and delay completion of our clinical trials, product testing and potential regulatory approval of our product candidates. Any performance failure on the part of our existing or future manufacturers, suppliers or distributors could delay clinical development or marketing approval of our product candidates or commercialization of our products, producing additional losses and depriving us of potential product revenue. We do not currently have arrangements in place for redundant supply or a second source for bulk drug substance and drug product. If our current contract manufacturers cannot perform as agreed, we may be required to replace such manufacturers. Although we believe that there are several potential alternative manufacturers who could manufacture our product candidates, we may incur added costs and delays in identifying and qualifying any such replacement.

We may be unable to establish any agreements with third-party manufacturers or to do so on acceptable terms. Even if we are able to establish agreements with third-party manufacturers, reliance on third-party manufacturers entails additional risks, including:

- reliance on the third-party for regulatory compliance and quality assurance;
- catastrophic events at the third-party organization;
- the possible breach of the manufacturing agreement by the third-party;
- the possible misappropriation of our proprietary information, including our trade secrets and know-how; and
- the possible termination or nonrenewal of the agreement by the third-party at a time that is costly or inconvenient for us.

The facilities used by our contract manufacturers to manufacture our product candidates must be approved by the applicable regulatory authorities, including the FDA, pursuant to inspections that will be conducted after an NDA is submitted to the FDA. We are completely dependent on our contract manufacturing partners for compliance with the FDA's requirements for manufacture of both the active drug substances and finished drug product for tipifarnib and our other product candidates. If our contract manufacturers cannot successfully manufacture material that conforms to our specifications and the FDA's regulatory requirements, they will not be able to secure or maintain FDA approval for the manufacturing facilities. In addition, we have limited control over the ability of our contract manufacturers to maintain adequate quality control, quality assurance and qualified personnel. If the FDA or any other applicable regulatory authorities

does not approve these facilities for the manufacture of our product candidates or if it withdraws any such approval in the future, or if our suppliers or contract manufacturers decide they no longer want to supply or manufacture our products, we may need to find alternative manufacturing facilities, in which case we might not be able to identify manufacturers for clinical or commercial supply on acceptable terms, or at all, which would significantly impact our ability to develop, obtain regulatory approval for or market our product candidates. Third-party manufacturers may not be able to comply with cGMP regulations or similar regulatory requirements outside the United States. Our failure, or the failure of our third-party manufacturers, to comply with applicable regulations could result in sanctions being imposed on us, including clinical holds, fines, injunctions, civil penalties, delays, suspension or withdrawal of approvals, license revocation, seizures or recalls of product candidates or products, operating restrictions and criminal prosecutions, any of which could significantly and adversely affect supplies of our products.

Our product candidates and any products that we may develop may compete with other product candidates and products for access to manufacturing facilities. There are a limited number of manufacturers that operate under cGMP regulations and that might be capable of manufacturing for us.

#### **Risks Related to Regulatory Approval of Our Product Candidates and Other Legal Compliance Matters**

***If we are not able to obtain, or if there are delays in obtaining, required regulatory approvals, we will not be able to commercialize our product candidates, and our ability to generate revenue will be materially impaired.***

Our product candidates must be approved by the FDA pursuant to an NDA in the United States and by the European Medicines Agency, or EMA, and similar regulatory authorities outside the United States prior to commercialization. The process of obtaining marketing approvals, both in the United States and abroad, is expensive and takes many years, if approval is obtained at all, and can vary substantially based upon a variety of factors, including the type, complexity and novelty of the product candidates involved. Failure to obtain marketing approval for a product candidate will prevent us from commercializing the product candidate. We have not received approval to market any of our product candidates from regulatory authorities in any jurisdiction. We have no experience in filing and supporting the applications necessary to gain marketing approvals and expect to rely on third-party CROs to assist us in this process. Securing marketing approval requires the submission of extensive preclinical and clinical data and supporting information to regulatory authorities for each therapeutic indication to establish the product candidate's safety and efficacy. Securing marketing approval also requires the submission of information about the product manufacturing process to, and inspection of manufacturing facilities by, the regulatory authorities, among other requirements. Our product candidates may not be effective, may be only moderately effective, may not have an acceptable durability of response, may not have an acceptable risk-benefit profile or may prove to have undesirable or unintended side effects, toxicities or other characteristics that may preclude our obtaining marketing approval or prevent or limit commercial use. Regulatory authorities have substantial discretion in the approval process and may refuse to accept any application or may decide that our data are insufficient for approval and require additional preclinical, clinical or other studies. In addition, varying interpretations of the data obtained from preclinical and clinical testing could delay, limit or prevent marketing approval of a product candidate. Changes in marketing approval policies during the development period, changes in or the enactment of additional statutes or regulations, or changes in regulatory review for each submitted product application, may also cause delays in or prevent the approval of an application.

If we experience delays in obtaining approval or if we fail to obtain approval of our product candidates, the commercial prospects for our product candidates may be harmed and our ability to generate revenues will be materially impaired.

***We may not be able to benefit from available regulatory exclusivity periods if another company obtains regulatory approval for tipifarnib before we do.***

As the composition of matter patents covering tipifarnib expired in the United States and in countries in Europe in 2016 and we have only a limited number of issued U.S. and foreign patents directed to our potential tipifarnib indications, our commercial strategy for tipifarnib relies on obtaining method of use and method of treatment patents, including those directed to specific indications and biomarkers, other patents related to tipifarnib, method of treatment patents related to farnesyl transferase inhibitors including tipifarnib, and on non-patent regulatory exclusivity. In the United States, a pharmaceutical manufacturer may obtain five years of non-patent exclusivity upon FDA approval of an NDA for new chemical entity, or NCE, which is a drug that contains an active moiety that has not been approved by the FDA in any other NDA. An "active moiety" is defined as the molecule or ion responsible for the drug substance's physiological or pharmacologic action. During the five-year exclusivity period, the FDA cannot accept for filing any ANDA seeking approval of a generic version of that drug or any Section 505(b)(2) NDA for the same active moiety and that relies on the FDA's findings regarding that drug, except that the FDA may accept an application for filing after four years if the follow-on applicant makes a paragraph IV certification. EB Pharma has licensed rights from Janssen to develop tipifarnib in virology indications. If EB Pharma obtains

regulatory approval for tipifarnib in a virology indication before we obtain regulatory approval in one of our oncology or other non-virology indications, the five-year exclusivity period would commence on the date upon which EB Pharma obtains regulatory approval, and as a result, the period of regulatory exclusivity to which we may be entitled may be reduced or eliminated and the commercial prospects for tipifarnib could be harmed as a result.

Additionally, if EB Pharma obtains approval of tipifarnib for a virology indication, EB Pharma may sell tipifarnib at a lower price, which could adversely affect the price at which we could sell tipifarnib for oncology or other non-virology indications.

***We may not be able to obtain orphan drug exclusivity for the product candidates for which we seek it, which could limit the potential profitability of such product candidates.***

Regulatory authorities in some jurisdictions, including the United States and Europe, may designate drugs for relatively small patient populations as orphan drugs. Under the Orphan Drug Act, the FDA may designate a product as an orphan drug if it is a drug intended to treat a rare disease or condition, which is generally defined as a patient population of fewer than 200,000 individuals in the United States. Generally, if a product with an orphan designation subsequently receives the first marketing approval for the indication for which it receives the designation, then the product is entitled to a period of marketing exclusivity that precludes the applicable regulatory authority from approving another marketing application for the same drug for the same indication during the exclusivity period. The applicable period is seven years in the United States and ten years in Europe. The European exclusivity period can be reduced to six years if a drug no longer meets the criteria for orphan designation or if the drug is sufficiently profitable so that market exclusivity is no longer justified. Orphan drug exclusivity may be lost if the FDA or EMA determines that the request for designation was materially defective, or if the manufacturer is unable to assure sufficient quantity of the drug to meet the needs of patients with the rare disease or condition.

In July 2019, the FDA granted orphan drug designation to KO-539 for the treatment of AML. If KO-539 receives marketing approval for an indication broader than AML, KO-539 may no longer be eligible for marketing exclusivity. In addition, we intend to pursue an orphan designation for some of our other product candidates, including tipifarnib. However, obtaining an orphan designation can be difficult, and we may not be successful in doing so for our other product candidates. The EMA does not generally recognize for orphan designation, molecular defined subsets of non-orphan disease indications, and as an example, EMA previously rejected orphan designation for a drug product for anaplastic lymphoma kinase, or ALK-positive NSCLC. As such, we do not expect to be able to obtain orphan drug designation in Europe for tipifarnib in the subset of HRAS mutant HNSCC at the current time. Even if we were to obtain orphan exclusivity for a product candidate, such as that received for KO-539, that exclusivity may not effectively protect the product from the competition of different drugs for the same orphan condition, which could be approved during the exclusivity period. Additionally, after an orphan drug is approved, the FDA could subsequently approve another application for the same drug for the same condition if the FDA concludes that the later drug is shown to be safer, more effective or makes a major contribution to patient care. The failure to obtain an orphan designation for any product candidates we may develop for the treatment of rare cancers, and/or the inability to maintain that designation for the duration of the applicable exclusivity period, could reduce our ability to make sufficient sales of the applicable product candidate to balance our expenses incurred to develop it, which would have a negative impact on our operational results and financial condition.

If we obtain an orphan designation and FDA approval of any of our product candidates for an oncology indication, we would be entitled to seven years of marketing exclusivity for that orphan indication. However, if a competitor obtained approval of a generic form of such product candidate for another indication, physicians would not be prevented from prescribing the generic drug for the orphan indication during the period of marketing exclusivity. Such prescribing practices could adversely affect the sales of our product candidates for the orphan indication.

***A Fast Track Designation by the FDA, such as granted to tipifarnib for the treatment of patients with HRAS mutant HNSCC after progression on platinum therapy, may not lead to a faster development or regulatory review or approval process and does not increase the likelihood that our product candidates will receive marketing approval.***

If a drug is intended for the treatment of a serious or life-threatening condition and the drug demonstrates the potential to address unmet medical needs for this condition, the drug sponsor may apply to the FDA for Fast Track Designation. The FDA has broad discretion whether or not to grant this designation, and even if we believe a specific product candidate is eligible for this designation, we cannot assure you that the FDA would decide to grant it. We have been granted Fast Track Designation by the FDA for our tipifarnib product candidate for the treatment of patients with HRAS mutant HNSCC after progression on platinum therapy, but this is no assurance we will receive this designation for any future product candidates.

Further, even though we have received this designation for tipifarnib, we may not experience a faster development process, review or approval compared to conventional FDA procedures. The FDA may withdraw Fast Track Designation if it believes that the designation is no longer supported by data from our clinical development program. Many drugs that have received Fast Track Designation have failed to obtain drug approval.

***A Breakthrough Therapy Designation by the FDA, even if granted for any of our product candidates, may not lead to a faster development or regulatory review or approval process, and does not increase the likelihood that our product candidates will receive marketing approval.***

We do not currently have Breakthrough Therapy Designation for any of our product candidates, but we intend to seek such designation if our clinical data supports such a designation. A Breakthrough Therapy is defined as a drug that is intended, alone or in combination with one or more other drugs, to treat a serious or life-threatening disease or condition, and preliminary clinical evidence indicates that the drug may demonstrate substantial improvement over existing therapies on one or more clinically significant endpoints, such as substantial treatment effects observed early in clinical development. For drugs that have been designated as Breakthrough Therapies, interaction and communication between the FDA and the sponsor can help to identify the most efficient path for development.

Designation as a Breakthrough Therapy is within the discretion of the FDA. Accordingly, even if we believe that one of our product candidates meets the criteria for designation as a Breakthrough Therapy, the FDA may disagree and instead determine not to make such designation. However, the reduced timelines may introduce significant chemistry, manufacturing and controls challenges for product development. In any event, the receipt of a Breakthrough Therapy Designation for a product candidate may not result in a faster development process, review or approval compared to drugs considered for approval under conventional FDA procedures and does not assure ultimate approval by the FDA. In addition, even if one or more of our product candidates qualify as Breakthrough Therapies, the FDA may later decide that such product candidates no longer meet the conditions for qualification and rescind such designations.

***Failure to obtain marketing approval in international jurisdictions would prevent our product candidates from being marketed abroad.***

In order to market and sell our products in the European Union and many other jurisdictions, we or our third-party collaborators must obtain separate marketing approvals and comply with numerous and varying regulatory requirements. The approval procedure varies among countries and can involve additional testing and different criteria for approval. The time required to obtain approval may differ substantially from that required to obtain FDA approval. The regulatory approval process outside the United States generally includes all of the risks associated with obtaining FDA approval. In addition, in many countries outside the United States, it is required that the product be approved for reimbursement before the product can be approved for sale in that country. We or our third-party collaborators may not obtain approvals from regulatory authorities outside the United States on a timely basis, if at all. Approval by the FDA does not ensure approval by regulatory authorities in other countries or jurisdictions, and approval by one regulatory authority outside the United States does not ensure approval by regulatory authorities in other countries or jurisdictions or by the FDA. However, failure to obtain marketing approval in some countries or jurisdictions may compromise our ability to obtain approval elsewhere. We may not be able to file for marketing approvals and may not receive necessary approvals to commercialize our products in any market.

***Any product candidate for which we obtain marketing approval will be subject to extensive post-approval regulatory requirements and could be subject to post-approval restrictions or withdrawal from the market, and we may be subject to penalties if we fail to comply with regulatory requirements or if we experience unanticipated problems with our products, when and if any of them are approved.***

Our product candidates and the activities associated with their development and commercialization, including their testing, manufacture, recordkeeping, labeling, storage, approval, advertising, promotion, sale and distribution, are subject to comprehensive regulation by the FDA and other regulatory authorities. These requirements include, without limitation, submissions of safety and other post-approval information and reports, registration and listing requirements, cGMP requirements relating to manufacturing, quality control, quality assurance and corresponding maintenance of records and documents, including periodic inspections by the FDA and other regulatory authorities, restrictions or requirements regarding the distribution of samples to physicians, tracking and reporting of payments to physicians and other healthcare providers, and recordkeeping requirements.

The FDA may also impose requirements for costly post-approval studies or clinical trials and surveillance to monitor the safety or efficacy of the product. The FDA closely regulates the post-approval marketing and promotion of drugs to

ensure drugs are marketed only for the approved indications and in accordance with the provisions of the approved labeling. The FDA imposes stringent restrictions on manufacturers' communications regarding use of their products and if we promote our products beyond their approved indications, we may be subject to enforcement action for off-label promotion. Violations of the Federal Food, Drug and Cosmetic Act relating to the promotion of prescription drugs may lead to investigations alleging violations of federal and state healthcare fraud and abuse laws, as well as state consumer protection laws.

In addition, later discovery of previously unknown adverse events or other problems with our products, manufacturers or manufacturing processes, or failure to comply with regulatory requirements, may yield various results, including:

- restrictions on such products, manufacturers or manufacturing processes;
- restrictions on the labeling or marketing of a product;
- restrictions on product distribution or use;
- requirements to conduct post-approval studies or clinical trials;
- warning or untitled letters;
- withdrawal of the products from the market;
- refusal to approve pending applications or supplements to approved applications that we submit;
- recall of products;
- fines, restitution or disgorgement of profits or revenues;
- suspension or withdrawal of marketing approvals;
- refusal to permit the import or export of our products;
- product seizure; or
- injunctions or the imposition of civil or criminal penalties.

Non-compliance with European Union requirements regarding safety monitoring or pharmacovigilance, and with requirements related to the development of products for the pediatric population, can also result in significant financial penalties. Similarly, failure to comply with the European Union's requirements regarding the protection of personal information can also lead to significant penalties and sanctions.

***Our relationships with customers and third-party payors and our general business operations may be subject to applicable anti-kickback, fraud and abuse, privacy and other healthcare laws and regulations, which could expose us to criminal sanctions, civil penalties, contractual damages, reputational harm and diminished profits and future earnings, among other penalties.***

Healthcare providers and third-party payors will play a primary role in the recommendation and prescription of any product candidates for which we obtain marketing approval. Our current and future arrangements with healthcare providers, third-party payors and customers may expose us to broadly applicable fraud and abuse and other healthcare laws and regulations that may constrain the business or financial arrangements and relationships through which we market, sell and distribute any products for which we obtain marketing approval. Restrictions under applicable federal and state healthcare laws and regulations include the following:

- the federal Anti-Kickback Statute which prohibits, among other things, individuals and entities from knowingly and willfully soliciting, offering, receiving or providing remuneration, directly or indirectly, in cash or in kind, to induce or reward, or in return for, either the referral of an individual for, or the purchase, order or recommendation of, any good or service, for which payment may be made under a federal healthcare program such as Medicare and Medicaid;
- the federal civil and criminal false claims, including the civil False Claims Act, which can be enforced by private citizens, on behalf of the government, through whistleblower actions, and civil monetary penalties laws which prohibits, among other things, individuals and entities from knowingly presenting, or causing to be presented, to the federal government, claims for payment that are false or fraudulent or making a false statement to avoid, decrease or conceal an obligation to pay money to the federal government;
- HIPAA, which imposes criminal and civil liability for, among other things, executing a scheme to defraud any healthcare benefit program or making false statements relating to healthcare matters;

- HIPAA, as amended by the HITECH Act, and their implementing regulations, which also imposes obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of protected health information on covered entities which include certain healthcare providers, health plans and healthcare clearinghouses, and their business associates that create, receive, maintain, or transmit protected health information in connection with providing a service for or on behalf of a covered entity;
- the federal Physician Payments Sunshine Act which requires applicable manufacturers of certain drugs, devices, biologics, and medical supplies for which payment is available under Medicare, Medicaid, or the Children’s Health Insurance Program, with specific exceptions, to report annually to the CMS information related to payments and other transfers of value to physicians, as defined by such law, and teaching hospitals, as well as certain manufacturers and group purchasing organizations to report annually ownership and investment interests held by physicians or their immediate family;
- analogous state and foreign laws and regulations, such as state anti-kickback and false claims laws, which may apply to sales or marketing arrangements and claims involving healthcare items or services reimbursed by non-governmental third-party payors, including private insurers; and
- state and foreign laws that govern the privacy and security of health information in certain circumstances, many of which differ from each other in significant ways and often are not preempted by or are in conflict with HIPAA, thus complicating compliance efforts, including the GDPR, which went into effect on May 25, 2018, and imposes privacy and security obligations on any entity that collects and/or processes health data from individuals located in the European Union. Under the GDPR, fines of up to 20 million euros or up to 4% of the annual global turnover of the infringer, whichever is greater, could be imposed for significant non-compliance. As well as complicating our compliance efforts, non-compliance with these laws could result in penalties or significant legal liability.

Some state laws require pharmaceutical companies to comply with the pharmaceutical industry’s voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government and may require drug manufacturers to report information related to payments and other transfers of value to physicians and other healthcare providers, marketing expenditures, and/or drug pricing. Some state and local laws also require the registration of pharmaceutical sales representatives.

Efforts to ensure that our business arrangements with third parties will comply with applicable healthcare laws and regulations will involve substantial costs. It is possible that governmental authorities will conclude that our business practices may not comply with current or future statutes, regulations or case law involving applicable fraud and abuse or other healthcare laws and regulations. If our operations are found to be in violation of any of these laws or any other governmental regulations that may apply to us, we may be subject to significant civil, criminal and administrative penalties, damages, fines, disgorgement, imprisonment, additional reporting requirements and oversight if we become subject to a corporate integrity agreement or similar agreement to resolve allegations of non-compliance with these laws, exclusion from government funded healthcare programs, such as Medicare and Medicaid, disgorgement, contractual damages, reputational harm, diminished profits and future earnings, and the curtailment or restructuring of our operations. If any of the physicians or other healthcare providers or entities with whom we expect to do business is found to be not in compliance with applicable laws, they may be subject to significant criminal, civil or administrative sanctions, including exclusions from government funded healthcare programs.

***Recently enacted and future legislation may increase the difficulty and cost for us to obtain marketing approval of and commercialize our product candidates and affect the prices we may obtain.***

In the United States and some foreign jurisdictions, there have been a number of legislative and regulatory changes and proposed changes regarding the healthcare system that could prevent or delay marketing approval of our product candidates, restrict or regulate post-approval activities and affect our ability to profitably sell any product candidates for which we obtain marketing approval.

For example, in March 2010, President Obama signed into law the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, or collectively the ACA, a sweeping law intended to broaden access to health insurance, improve quality, reduce or constrain the growth of healthcare spending, enhance remedies against fraud and abuse, add new transparency requirements for the healthcare and health insurance industries, impose new taxes and fees on the health industry and impose additional health policy reforms.

Among the provisions of the ACA of importance to our potential product candidates and our business are the following:

- an annual, nondeductible fee on any entity that manufactures or imports specified branded prescription drugs and biologic agents;
- an increase in the statutory minimum rebates a manufacturer must pay under the Medicaid Drug Rebate Program;
- expansion of healthcare fraud and abuse laws, including the civil False Claims Act and the federal Anti-Kickback Statute, new government investigative powers, and enhanced penalties for noncompliance;
- a new Medicare Part D coverage gap discount program, in which manufacturers must now agree to offer 70% point-of-sale discounts off negotiated prices of applicable brand drugs to eligible beneficiaries during their coverage gap period, as a condition for a manufacturer's outpatient drugs to be covered under Medicare Part D;
- extension of manufacturers' Medicaid rebate liability;
- expansion of eligibility criteria for Medicaid programs;
- expansion of the entities eligible for discounts under the Public Health Service pharmaceutical pricing program;
- new requirements to report certain financial arrangements with physicians and teaching hospitals;
- a new requirement to annually report information regarding drug samples that manufacturers and distributors provide to physicians; and
- a new Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research.

There remain judicial and Congressional challenges, as well as efforts by the Trump administration to repeal or replace certain aspects of the ACA. Certain changes to the ACA, such as the removal of the ACA's individual health insurance mandate by federal tax legislation, a delay in the implementation of certain ACA-mandated fees, and other changes to the ACA to close the coverage gap in most Medicare drug plans, commonly referred to as the "donut hole," were recently enacted or implemented, and the effect of these changes is unknown. On December 14, 2018, a U.S. District Court Judge in Texas ruled that ACA is unconstitutional in its entirety because the "individual mandate" was repealed by Congress as part of the Tax Cuts and Jobs Act. Additionally, on December 18, 2019, the U.S. Court of Appeals for the 5th Circuit upheld the District Court ruling that the individual mandate was unconstitutional and remanded the case back to the District Court to determine whether the remaining provisions of the ACA are invalid as well. It is unclear how this decision, future decisions, subsequent appeals, and other efforts to repeal and replace ACA will impact ACA and our business. We cannot predict the ultimate content, timing or effect of healthcare reform legislation or regulation or the impact of potential legislation or regulation on us.

In addition, other legislative changes have been proposed and adopted since the ACA was enacted. These changes included aggregate reductions to Medicare payments to providers of up to 2% per fiscal year, starting in 2013, that due to subsequent legislative amendments, will stay in effect through 2029 unless additional Congressional action is taken. In January 2013, President Obama signed into law the American Taxpayer Relief Act of 2012, which, among other things, reduced Medicare payments to certain providers, and increased the statute of limitations period for the government to recover overpayments to providers from three to five years. These new laws and other potential legislation may result in additional reductions in Medicare and other healthcare funding, which could have a material adverse effect on customers for our drugs, if approved, and accordingly, our financial operations.

Further, recently there has been heightened governmental scrutiny over the manner in which manufacturers set prices for their marketed products. As a result, there have been several recent U.S. Congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to drug pricing, review the relationship between pricing and manufacturer patient programs, reduce the cost of drugs under Medicare, and reform government program reimbursement methodologies for drug products. At the federal level, the Trump administration's budget proposal for fiscal year 2020 contains further drug price control measures that could be enacted during the budget process or in other future legislation. Further, the Trump administration released a "Blueprint" to lower drug prices and reduce out of pocket costs of drugs that contains additional proposals to increase drug manufacturer competition, increase the negotiating power of certain federal healthcare programs, incentivize manufacturers to lower the list price of their products, and reduce the out of pocket costs of drug products paid by consumers. The Department of HHS has solicited feedback on some of these measures and has implemented others under its existing authority. For example, in May 2019, CMS issued a final rule to allow Medicare Advantage Plans the option of using step therapy for Part B drugs beginning January 1, 2020.

This final rule codified CMS’s policy change that was effective January 1, 2019. Although a number of these and other potential measures may require additional authorization to become effective, Congress and the Trump administration have each indicated that it will continue to seek new legislative and/or administrative measures to control drug costs. At the state level, legislatures have increasingly passed legislation and implemented regulations designed to control pharmaceutical and biological product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing. Future legislation could potentially change drug pricing dynamics. We cannot predict all of the ways in which future healthcare reform legislation or regulation could affect our business.

We expect that healthcare reform measures that have been adopted and may be adopted in the future, may result in more rigorous coverage criteria and in additional downward pressure on the price that we receive for any approved product. Any reduction in reimbursement from Medicare or other government programs may result in a similar reduction in payments from private payors. The implementation of cost containment measures or other healthcare reforms may prevent us from being able to generate revenue, attain profitability, or commercialize our products.

Legislative and regulatory proposals have been made to expand post-approval requirements and restrict sales and promotional activities for pharmaceutical products. We cannot be sure whether additional legislative changes will be enacted, or whether FDA regulations, guidance or interpretations will be changed, or what the impact of such changes on the marketing approvals of our product candidates, if any, may be. In addition, increased scrutiny by the U.S. Congress of the FDA’s approval process may significantly delay or prevent marketing approval, as well as subject us to more stringent product labeling and post-approval testing and other requirements. Foreign legislative changes may also affect our ability to commercialize our product candidates.

Additionally, California recently enacted legislation that has been dubbed the first “GDPR-like” law in the United States. Known as the California Consumer Privacy Act, or CCPA, it creates new individual privacy rights for consumers (as that word is broadly defined in the law) and places increased privacy and security obligations on entities handling personal data of consumers or households. Effective January 1, 2020, the CCPA requires covered companies to provide new disclosures to California consumers, provides such consumers new ways to opt-out of certain sales of personal information, and allows for a new cause of action for data breaches. The CCPA will likely impact (possibly significantly) our business activities and exemplifies the vulnerability of our business to not only cyber threats but also the evolving regulatory environment related to personal data.

***Governments outside the United States tend to impose strict price controls, which may adversely affect our revenues, if any.***

In some countries, particularly the countries of the European Union, the pricing of prescription pharmaceuticals is subject to governmental control. In these countries, pricing negotiations with governmental authorities can take considerable time after the receipt of marketing approval for a product. To obtain reimbursement or pricing approval in some countries, we may be required to conduct a clinical trial that compares the cost-effectiveness of our product candidate to other available therapies. If reimbursement for our products is unavailable or limited in scope or amount, or if pricing is set at unsatisfactory levels, our business could be harmed, possibly materially.

***If we fail to comply with environmental, health and safety laws and regulations, we could become subject to fines or penalties or incur costs that could harm our business.***

We are subject to numerous environmental, health and safety laws and regulations, including those governing laboratory procedures and the handling, use, storage, treatment and disposal of hazardous materials and wastes. Our operations involve the use of hazardous and flammable materials, including chemicals and biological materials. Our operations also produce hazardous waste products. We generally contract with third parties for the disposal of these materials and wastes. We cannot eliminate the risk of contamination or injury from these materials. In the event of contamination or injury resulting from our use of hazardous materials, we could be held liable for any resulting damages, and any liability could exceed our resources. We also could incur significant costs associated with civil or criminal fines and penalties for failure to comply with such laws and regulations.

Although we maintain workers’ compensation insurance to cover us for costs and expenses we may incur due to injuries to our employees resulting from the use of hazardous materials, this insurance may not provide adequate coverage against potential liabilities. We do not maintain insurance for environmental liability or toxic tort claims that may be asserted against us in connection with our storage or disposal of biological, hazardous or radioactive materials.

In addition, we may incur substantial costs in order to comply with current or future environmental, health and safety laws and regulations. These current or future laws and regulations may impair our discovery, preclinical development or production efforts. Our failure to comply with these laws and regulations also may result in substantial fines, penalties or other sanctions.

### **Risks Related to Our Intellectual Property**

***If we are unable to obtain and maintain intellectual property protection for our product candidates, or if the scope of the intellectual property protection obtained is not sufficiently broad, our competitors could develop and commercialize products similar or identical to ours, and our ability to successfully commercialize our product candidates may be impaired.***

We intend to rely upon a combination of regulatory exclusivity periods, patents, trade secret protection, confidentiality agreements, and license agreements to protect the intellectual property related to our current product candidates and development programs. If the breadth or strength of protection provided by any patents, patent applications or future patents we may own, license, or pursue with respect to any of our current or future product candidates or products is threatened, it could threaten our ability to commercialize any of our current or future product candidates or products. Further, if we encounter delays in our development efforts, the period of time during which we could market any of our current or future product candidates or products under any patent protection we obtain would be reduced. Given the amount of time required for the development, testing and regulatory review of new product candidates or products, patents protecting such candidates might expire before or shortly after such product candidates or products are commercialized.

Our patent rights may not protect our patent protected products and product candidates if competitors devise ways of making products that compete with us without legally infringing our patent rights. For example, our patent rights in tipifarnib are limited in ways that affect our ability to exclude third parties from competing against us. In particular, the patent term for the composition of matter patents covering the API of tipifarnib expired in the United States and countries in Europe in 2016. Composition of matter patents on APIs are generally considered to be the strongest form of intellectual property protection because such patents provide protection without regard to any particular method of use or manufacture or formulation of the API used. The U.S. PTO issued us several patents directed to the method of treatment of HRAS mutant HNSCC with tipifarnib and corresponding patents have been issued in a number of foreign jurisdictions. In July and November 2019, the U.S. PTO issued us patents directed to the treatment of HRAS mutant HNSCC with any farnesyl transferase inhibitor. In addition, in July 2019 and January 2020, the EPO granted us patents directed to the method of treatment of HRAS mutant HNSCC patients with tipifarnib. The U.S. PTO also issued us patents directed to the method of treatment of AITL with tipifarnib and the method of treatment of CXCL12-expressing PTCL or AML with tipifarnib. In October 2019, the U.S. PTO issued us a patent directed to the method of treatment of CXCL12-expressing PTCL or AML with any farnesyl transferase inhibitor.

Although these patents are currently in force, there is no guarantee that a court would agree that any of the patents are valid or enforceable. Further, if a competitor were to develop tipifarnib for use in an indication other than that claimed by the patents, we would not be able to prevent them from marketing tipifarnib in the United States or other jurisdictions based on our currently issued patents. A limited number of patents directed to the use of tipifarnib in certain patients with HRAS mutant HNSCC have been granted in foreign jurisdictions. We are pursuing additional United States and foreign method of treatment patents for tipifarnib and farnesyl transferase inhibitors, however there is no guarantee that any such patents will be granted.

We have issued patents in the United States and a number of foreign jurisdictions, including Europe covering the composition of matter of KO-947 and certain structurally related compounds, and methods of using the compounds for the treatment of cancers. We also have issued patents in the United States covering the composition of matter of KO-539 and certain structurally related compounds and methods of using the compounds for treating cancers. Although these patents are currently in force, there is no guarantee that a court would agree that any of the patents are valid or enforceable.

We are pursuing additional U.S. and foreign patents for KO-947 and KO-539; however, there is no guarantee that any such patents will be granted. Patent term extension may be available in the United States to account for regulatory delays in obtaining human marketing approval for a product candidate; however, only one patent may be extended per marketed compound. Under our license agreement with Janssen for tipifarnib, we and Janssen agree to cooperate in obtaining available patent term extensions. We and Janssen may not reach agreement and no patent term extension may be obtained. Additionally, the applicable authorities, including the U.S. PTO and the FDA, and any equivalent regulatory authority in other countries, may not agree with our assessment of whether such extensions are available, and may refuse to grant extensions to patents, or may grant more limited extensions than requested. If this occurs, our competitors who obtain the

requisite regulatory approval can offer products with the same API as tipifarnib so long as the competitors do not infringe any method of use patents that we may hold. Competitors may take advantage of our investment in development and clinical trials by referencing our clinical and preclinical data and launch their product earlier than might otherwise be the case.

We expect that following expiration of patents and any regulatory exclusivity we are able to obtain, competitors may manufacture and sell generic versions of tipifarnib, at a lower price, which would reduce tipifarnib's revenues. In certain jurisdictions, legislation mandates generic substitution for brand name drugs.

***We depend on our licensors to prosecute and maintain patents and patent applications that are material to our business. Any failure by our licensors to effectively protect these intellectual property rights could adversely impact our business and operations.***

We have licensed patent rights from third parties for some of our development programs, including tipifarnib from Janssen and compounds in our menin-MLL program from the University of Michigan. As a licensee of third parties, we rely on these third parties to file and prosecute patent applications and maintain patents and otherwise protect the licensed intellectual property under some of our license agreements. We have not had and do not have primary control over these activities for certain of our patents or patent applications and other intellectual property rights. We cannot be certain that such activities by third parties have been or will be conducted in compliance with applicable laws and regulations or will result in valid and enforceable patents or other intellectual property rights. Pursuant to the terms of the license agreements with some of our licensors, the licensors may have the right to control enforcement of our licensed patents or defense of any claims asserting the invalidity of these patents and even if we are permitted to pursue such enforcement or defense, we will require the cooperation of our licensors. We cannot be certain that our licensors will allocate sufficient resources or prioritize their or our enforcement of such patents or defense of such claims to protect our interests in the licensed patents. Even if we are not a party to these legal actions, an adverse outcome could harm our business because it might prevent us from continuing to license intellectual property that we may need to operate our business.

With respect to the patent portfolio for tipifarnib, which is in-licensed from Janssen, Janssen maintains rights to prosecute and maintain patents and patent applications within the portfolio as well as to assert such patents against infringers within and outside the scope of our license, and to defend such patents against claims of invalidity and unenforceability. Although we have rights to consult with Janssen on actions taken as well as back-up rights of prosecution and enforcement, rights to tipifarnib granted to another licensee, such as EB Pharma, could potentially influence Janssen's interests in the exercise of its prosecution, maintenance and enforcement rights in a manner that may favor the interests of such other licensee as compared with us.

***If we breach any of the agreements under which we license from third parties the commercialization rights to our product candidates, we could lose license rights that are important to our business and our operations could be materially harmed.***

We have in-licensed from Janssen the use, development and commercialization rights in all indications other than virology, for our lead product candidate, tipifarnib. We have also in-licensed rights to KO-539 and other compounds in our menin-MLL program from the University of Michigan. Additionally, we have an exclusive worldwide license from Memorial Sloan Kettering Cancer Center to a patent family pertaining to a method of use of tipifarnib. As a result, our current business plans are dependent upon our satisfaction of certain conditions to the maintenance of the Janssen agreement and the rights we license under it and our other in-license agreements. The Janssen license agreement and the University of Michigan license agreement each provide that we are subject to diligence obligations relating to the commercialization and development of the respective product candidates, milestone payments, royalty payments and other obligations. If we fail to comply with any of the conditions or obligations or otherwise breach the terms of our license agreement with Janssen, or any of our other license agreements or license agreements we may enter into on which our business or product candidates are dependent, Janssen or other licensors may have the right to terminate the applicable agreement in whole or in part and thereby extinguish our rights to the licensed technology and intellectual property and/or any rights we have acquired to develop and commercialize certain product candidates, including, with respect to our license agreement with Janssen, tipifarnib. The loss of the rights licensed to us under our license agreement with Janssen, or our other license agreements or any future license agreement that we may enter granting us rights on which our business or product candidates are dependent, would eliminate our ability to further develop the applicable product candidates and would materially harm our business, prospects, financial condition and results of operations.

***The patent applications of pharmaceutical and biotechnology companies involve highly complex legal and factual questions, which, if determined adversely to us, could negatively impact our patent position.***

The patent position of biotechnology and pharmaceutical companies generally is highly uncertain, involves complex legal and factual questions and has in recent years been the subject of much litigation. In addition, the laws of foreign countries may not protect our rights to the same extent as the laws of the United States. Certain inventions that are patentable in the United States may not be patentable in other countries and vice versa. Further, our ability to enforce our patent rights in foreign jurisdictions may not be as effective as in the United States. For example, some foreign countries, such as India and China, may not allow or enforce patents for methods of treating the human body. Publications of discoveries in the scientific literature often lag behind the actual discoveries, and patent applications in the United States and other jurisdictions are typically not published until 18 months after filing, or in some cases not at all. Therefore, we cannot know with certainty whether we or our licensors were the first to make the inventions claimed in our owned or licensed patents or pending patent applications, or that we or our licensors were the first to file for patent protection of such inventions. As a result, the issuance, scope, validity, enforceability and commercial value of our patent rights are highly uncertain. Our pending and future patent applications may not result in patents being issued which protect our technology or products, in whole or in part, or which effectively prevent others from commercializing competitive technologies and products. Changes in either the patent laws or interpretation of the patent laws in the United States and other countries may diminish the value of our patents or narrow the scope of our patent protection, or eliminate our patent protection completely.

Patent reform legislation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents. On September 16, 2011, the Leahy-Smith America Invents Act, or the Leahy-Smith Act, was signed into law. The Leahy-Smith Act includes a number of significant changes to U.S. patent law. These include provisions that affect the way patent applications are prosecuted and may also affect patent litigation. The U.S. PTO developed new regulations and procedures to govern administration of the Leahy-Smith Act, and many of the substantive changes to patent law associated with the Leahy-Smith Act, and in particular, the first to file provisions, became effective on March 16, 2013. Accordingly, it is not clear what, if any, impact the Leahy-Smith Act will have on the operation of our business. However, the Leahy-Smith Act and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents, all of which could have a material adverse effect on our business and financial condition.

Moreover, we may be subject to a third-party preissuance submission of prior art to the U.S. PTO, or become involved in opposition, derivation, reexamination, inter partes review, post-grant review or interference proceedings challenging our patent rights or the patent rights of others. An adverse determination in any such submission, proceeding or litigation could reduce the scope of, or invalidate, our patent rights, allow third parties to commercialize our technology or products and compete directly with us, without payment to us, or result in our inability to manufacture or commercialize products without infringing third-party patent rights. In addition, if the breadth or strength of protection provided by our patents and patent applications is threatened, it could dissuade companies from collaborating with us to license, develop or commercialize current or future product candidates.

Even if our owned and licensed patent applications issue as patents, they may not issue in a form that will provide us with any meaningful protection, prevent competitors from competing with us or otherwise provide us with any competitive advantage. Even if our owned and licensed patents might provide such protection or competitive advantage, we may not have the resources to effectively enforce our rights under such patents, which can be expensive and time-consuming. Further, our competitors may be able to circumvent our owned or licensed patents by developing similar or alternative technologies or products in a non-infringing manner.

The issuance of a patent is not conclusive as to its inventorship, scope, validity or enforceability, and our owned and licensed patents may be challenged in the courts or patent offices in the United States and abroad. Such challenges may result in loss of exclusivity or freedom to operate or in patent claims being narrowed, invalidated or held unenforceable, in whole or in part, which could limit our ability to stop others from using or commercializing similar or identical technology and products, or limit the duration of the patent protection of our technology and products. Given the amount of time required for the development, testing and regulatory review of new product candidates, patents protecting such candidates might expire before or shortly after such candidates are commercialized. As a result, our owned and licensed patent portfolio may not provide us with sufficient rights to exclude others from commercializing products similar or identical to ours.

***Obtaining and maintaining our patent protection depends on compliance with various procedural, document submission, fee payment and other requirements imposed by governmental patent agencies, and our patent protection could be reduced or eliminated for non-compliance with these requirements.***

Periodic maintenance fees, renewal fees, annuity fees and various other governmental fees on patents and/or applications will be due to be paid to the U.S. PTO and various governmental patent agencies outside of the United States in several stages over the lifetime of the patents and/or applications. We have systems in place to remind us to pay these fees, and we employ an outside firm and rely on our outside counsel to pay these fees due to non-U.S. patent agencies. The U.S. PTO and various non-U.S. governmental patent agencies require compliance with a number of procedural, documentary, fee payment and other similar provisions during the patent application process. We employ reputable law firms and other professionals to help us comply, and in many cases, an inadvertent lapse can be cured by payment of a late fee or by other means in accordance with the applicable rules. However, there are situations in which non-compliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. In such an event, our competitors might be able to enter the market and this circumstance would have a material adverse effect on our business.

***We may become involved in lawsuits to protect or enforce our patents or other intellectual property, which could be expensive, time consuming and unsuccessful.***

Because competition in our industry is intense, competitors may infringe or otherwise violate our issued patents, patents of our licensors or other intellectual property. To counter infringement or unauthorized use, we may be required to file infringement claims, which can be expensive and time consuming. Any claims we assert against perceived infringers could provoke these parties to assert counterclaims against us alleging that we infringe their patents. In addition, in a patent infringement proceeding, a court may decide that a patent of ours is invalid or unenforceable, in whole or in part, construe the patent's claims narrowly or refuse to stop the other party from using the technology at issue on the grounds that our patents do not cover the technology in question. An adverse result in any litigation proceeding could put one or more of our patents at risk of being invalidated or interpreted narrowly. We may also elect to enter into license agreements in order to settle patent infringement claims or to resolve disputes prior to litigation, and any such license agreements may require us to pay royalties and other fees that could be significant. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure.

***Third parties may initiate legal proceedings alleging that we are infringing their intellectual property rights, the outcome of which would be uncertain and could have a material adverse effect on the success of our business.***

Our commercial success depends upon our ability, and the ability of our collaborators, to develop, manufacture, market and sell our product candidates and use our proprietary technologies without infringing the proprietary rights of third parties. There is considerable intellectual property litigation in the biotechnology and pharmaceutical industries. We may become party to, or threatened with, future adversarial proceedings or litigation regarding intellectual property rights with respect to our products and technology, including interference or derivation proceedings before the U.S. PTO. Third parties may assert infringement claims against us based on existing patents or patents that may be granted in the future.

If we are found to infringe a third-party's intellectual property rights, we could be required to obtain a license from such third-party to continue developing and marketing our products and technology. However, we may not be able to obtain any required license on commercially reasonable terms or at all. Even if we were able to obtain a license, it could be non-exclusive, thereby giving our competitors access to the same technologies licensed to us. We could be forced, including by court order, to cease commercializing the infringing technology or product. In addition, we could be found liable for monetary damages, including treble damages and attorneys' fees if we are found to have willfully infringed a patent. A finding of infringement could prevent us from commercializing our product candidates or force us to cease some of our business operations, which could materially harm our business. Claims that we have misappropriated the confidential information or trade secrets of third parties could have a similar negative impact on our business.

***We may not be successful in obtaining or maintaining necessary rights for our development pipeline through acquisitions and in-licenses.***

Presently we have rights to intellectual property under an exclusive license from Janssen, to develop tipifarnib in all fields other than virology, and an exclusive worldwide license from Memorial Sloan Kettering Cancer Center to a patent family pertaining to a method of use of tipifarnib, as well as an exclusive worldwide license from the University of Michigan for all therapeutic indications for KO-539 and other compounds in our menin-MLL program. Because our programs may

involve additional product candidates that may require the use of proprietary rights held by third parties, the growth of our business may depend in part on our ability to acquire, in-license or use these proprietary rights. Additionally, a companion diagnostic may require that we or a third-party collaborator developing the diagnostic acquire proprietary rights held by third parties, which may not be available. We may be unable to acquire or in-license any compositions, methods of use, or other third-party intellectual property rights from third parties that we identify. The licensing and acquisition of third-party intellectual property rights is a competitive area, and a number of more established companies are also pursuing strategies to license or acquire third-party intellectual property rights that we may consider attractive. These established companies may have a competitive advantage over us due to their size, cash resources and greater clinical development and commercialization capabilities.

For example, we may collaborate with U.S. and foreign academic institutions to accelerate our discovery and preclinical development work under written agreements with these institutions. Typically, these institutions provide us with an option to negotiate a license to any of the institution's rights in technology resulting from the collaboration. Regardless of such right of first negotiation for intellectual property, we may be unable to negotiate a license within the specified time frame or under terms that are acceptable to us. If we are unable to do so, the institution may offer the intellectual property rights to other parties, potentially blocking our ability to pursue our program.

In addition, companies that perceive us to be a competitor may be unwilling to assign or license rights to us. We also may be unable to license or acquire third-party intellectual property rights on terms that would allow us to make an appropriate return on our investment. If we are unable to successfully obtain rights to required third-party intellectual property rights, our business, financial condition and prospects for growth could suffer.

***If we are unable to protect the confidentiality of our trade secrets, our business and competitive position would be harmed.***

In addition to seeking patents for some of our technology and product candidates, we also rely on trade secrets, including unpatented know-how, technology and other proprietary information, to maintain our competitive position. We seek to protect these trade secrets, in part, by entering into non-disclosure and confidentiality agreements with parties who have access to them, such as our employees, corporate collaborators, outside scientific collaborators, contract manufacturers, consultants, advisors and other third parties. We seek to protect our confidential proprietary information, in part, by entering into confidentiality and invention or patent assignment agreements with our employees and consultants, however, we cannot be certain that such agreements have been entered into with all relevant parties. Moreover, to the extent we enter into such agreements, any of these parties may breach the agreements and disclose our proprietary information, including our trade secrets, and we may not be able to obtain adequate remedies for such breaches. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret is difficult, expensive and time-consuming, and the outcome is unpredictable. In addition, some courts inside and outside the United States are less willing or unwilling to protect trade secrets. If any of our trade secrets were to be lawfully obtained or independently developed by a competitor, we would have no right to prevent them, or those to whom they communicate it, from using that technology or information to compete with us. If any of our trade secrets were to be disclosed to or independently developed by a competitor, our competitive position would be harmed.

#### **Risks Related to the Commercialization of Our Product Candidates**

***Even if any of our product candidates receives marketing approval, it may fail to achieve the degree of market acceptance by physicians, patients, third-party payors and others in the medical community necessary for commercial success.***

If any of our product candidates receives marketing approval, it may nonetheless fail to gain sufficient market acceptance by physicians, patients, third-party payors and others in the medical community. For example, current cancer treatments like chemotherapy and radiation therapy are well established in the medical community, and doctors may continue to rely on these treatments to the exclusion of our product candidates. In addition, physicians, patients and third-party payors may prefer other novel products to ours, such as the recently approved immune-oncology therapies, in which there is increasing awareness and interest. If our product candidates do not achieve an adequate level of acceptance, we may not generate significant product revenues and we may not become profitable. The degree of market acceptance of our product candidates, if approved for commercial sale, will depend on a number of factors, including:

- the efficacy and safety and potential advantages and disadvantages compared to alternative treatments;
- our ability to offer our products for sale at competitive prices;
- the convenience and ease of administration compared to alternative treatments;
- the willingness of the target patient population to try new therapies and of physicians to prescribe these therapies;

- the strength of our marketing and distribution support;
- the availability of third-party coverage and adequate reimbursement, including patient cost-sharing programs such as copays and deductibles;
- our ability to develop or partner with third-party collaborators to develop companion diagnostics;
- the prevalence and severity of any side effects; and
- any restrictions on the use of our products together with other medications.

***We currently have no marketing and sales force. If we are unable to establish effective sales or marketing capabilities or enter into agreements with third parties to sell or market our product candidates if they obtain regulatory approval, we may not be able to effectively sell or market our product candidates, if approved, or generate product revenues.***

We currently do not have a marketing or sales team for the marketing, sales and distribution of any of our product candidates that are able to obtain regulatory approval. In order to commercialize any product candidates, we must build on a territory-by-territory basis marketing, sales, distribution, managerial and other non-technical capabilities or make arrangements with third parties to perform these services, and we may not be successful in doing so. If our product candidates receive regulatory approval, we intend to establish an internal sales or marketing team with technical expertise and supporting distribution capabilities to commercialize our product candidates, which will be expensive and time consuming and will require significant attention of our executive officers to manage. Capable managers with commercial experience may need to be identified and successfully recruited to our company. Any failure or delay in the development of our internal sales, marketing and distribution capabilities would adversely impact the commercialization of any of our products that we obtain approval to market. With respect to the commercialization of all or certain of our product candidates, we may choose to collaborate, either globally or on a territory-by-territory basis, with third parties that have direct sales forces and established distribution systems, either to augment our own sales force and distribution systems or in lieu of our own sales force and distribution systems. If we are unable to enter into such arrangements when needed on acceptable terms or at all, we may not be able to successfully commercialize any of our product candidates that receive regulatory approval or any such commercialization may experience delays or limitations. If we are not successful in commercializing our product candidates, either on our own or through collaborations with one or more third parties, our future product revenue will suffer and we may incur significant additional losses.

***We face substantial competition, which may result in others discovering, developing or commercializing competing products before or more successfully than we do.***

The development and commercialization of new drug products is highly competitive. We face competition with respect to our current product candidates, and we will face competition with respect to any product candidates that we may seek to develop or commercialize in the future, from major pharmaceutical companies, specialty pharmaceutical companies and biotechnology companies worldwide. There are a number of large pharmaceutical and biotechnology companies that currently market and sell products or are pursuing the development of products for the treatment of the disease indications for which we are developing our product candidates. Some of these competitive products and therapies are based on scientific approaches that are the same as or similar to our approach, and others are based on entirely different approaches. Potential competitors also include academic institutions, government agencies and other public and private research organizations that conduct research, seek patent protection and establish collaborative arrangements for research, development, manufacturing and commercialization.

Specifically, there are a large number of companies developing or marketing treatments for cancer, including many major pharmaceutical and biotechnology companies, which may directly compete with tipifarnib, KO-947, KO-539 and any other future product candidates.

Our commercial opportunity could be reduced or eliminated if our competitors develop and commercialize products that are safer, more effective, have fewer or less severe side effects, are more convenient or are less expensive than any products that we may develop. Our competitors also may obtain FDA or other regulatory approval for their products more rapidly than we may obtain approval for ours, which could result in our competitors establishing a strong market position before we are able to enter the market or slow our regulatory approval. In addition, our ability to compete may be affected in many cases by insurers or other third-party payors seeking to encourage the use of generic products. Generic products are currently on the market for the indications that we are pursuing, and additional products are expected to become available on a generic basis over the coming years. If our product candidates achieve marketing approval, we expect that they will be priced at a significant premium over competitive generic products.

Many of the companies against which we are competing or against which we may compete in the future have significantly greater financial resources and expertise in research and development, manufacturing, preclinical testing, conducting clinical trials, obtaining regulatory approvals and marketing approved products than we do. Mergers and acquisitions in the pharmaceutical and biotechnology industries may result in even more resources being concentrated among a smaller number of our competitors. Smaller and other early-stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies. These third parties compete with us in recruiting and retaining qualified scientific and management personnel, establishing clinical trial sites and patient registration for clinical trials, as well as in acquiring technologies complementary to, or necessary for, our programs.

***The insurance coverage and reimbursement status of newly-approved products is uncertain. Failure to obtain or maintain coverage and adequate reimbursement for new or current products could limit our ability to market those products and decrease our ability to generate revenue.***

The availability and extent of coverage and reimbursement by governmental and private payors is essential for most patients to be able to afford expensive treatments. Sales of our product candidates will depend substantially, both domestically and abroad, on the extent to which the costs of our product candidates will be paid by health maintenance, managed care, pharmacy benefit and similar healthcare management organizations, or reimbursed by government health administration authorities, private health coverage insurers and other third-party payors. If reimbursement is not available, or is available only to limited levels, we may not be able to successfully commercialize our product candidates. Even if coverage is provided, the approved reimbursement amount may not be high enough to allow us to establish or maintain pricing sufficient to realize a sufficient return on our investment.

There is significant uncertainty related to the insurance coverage and reimbursement of newly approved products. In the United States, the principal decisions about reimbursement for new medicines are typically made by CMS, an agency within the HHS, as CMS decides whether and to what extent a new medicine will be covered and reimbursed under Medicare. Private payors often, but not always, follow CMS's decisions regarding coverage and reimbursement. It is difficult to predict what CMS will decide with respect to coverage and reimbursement for fundamentally novel products such as ours, as there is no body of established practices and precedents for these new products. One payor's determination to provide coverage for a drug product does not assure that other payors will also provide coverage for the drug product. Further, a payor's decision to provide coverage for a drug product does not imply that an adequate reimbursement rate will be approved. We or our collaborators may need to conduct expensive pharmacoeconomic studies in order to demonstrate the medical necessity and cost-effectiveness of our products, in addition to the costs required to obtain FDA approvals. Nonetheless, our product candidates may not be considered medically necessary or cost-effective.

Reimbursement agencies in countries other than the United States may be more conservative than CMS. For example, a number of cancer drugs have been approved for reimbursement in the United States and have not been approved for reimbursement in certain European countries. Outside the United States, international operations are generally subject to extensive governmental price controls and other market regulations, and we believe the increasing emphasis on cost-containment initiatives in Europe, Canada, and other countries has and will continue to put pressure on the pricing and usage of our product candidates. In many countries, the prices of medical products are subject to varying price control mechanisms as part of national health systems. In general, the prices of medicines under such systems are substantially lower than in the United States. Other countries allow companies to fix their own prices for medicines but monitor and control company profits. Additional foreign price controls or other changes in pricing regulation could restrict the amount that we are able to charge for our product candidates. Accordingly, in markets outside the United States, the reimbursement for our products may be reduced compared with the United States and may be insufficient to generate commercially reasonable revenues and profits.

Moreover, increasing efforts by governmental and third-party payors, in the United States and abroad, to cap or reduce healthcare costs may cause such organizations to limit both coverage and level of reimbursement for new products approved and, as a result, they may not cover or provide adequate payment for our product candidates. In addition, drug-pricing by pharmaceutical companies has come under increased scrutiny. Specifically, there have been several recent U.S. Congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to drug pricing by requiring drug companies to notify insurers and government regulators of price increases and provide an explanation of the reasons for the increase, reduce the out-of-pocket cost of prescription drugs, review the relationship between pricing and manufacturer patient programs and reform government program reimbursement methodologies for drugs. We expect to experience pricing pressures in connection with the sale of any of our product candidates, due to the trend toward managed healthcare, the increasing influence of health maintenance organizations and additional legislative changes. The downward pressure on healthcare costs in general, particularly prescription drugs and

surgical procedures and other treatments, has become very intense. As a result, increasingly high barriers are being erected to the entry of new products into the healthcare market.

In addition to CMS and private payors, professional organizations such as the National Comprehensive Cancer Network and the American Society of Clinical Oncology can influence decisions about reimbursement for new medicines by determining standards for care. In addition, many private payors contract with commercial vendors who sell software that provide guidelines that attempt to limit utilization of, and therefore reimbursement for, certain products deemed to provide limited benefit to existing alternatives. Such organizations may set guidelines that limit reimbursement or utilization of our products.

Further, we or our collaborators will be required to obtain coverage and reimbursement for companion diagnostic tests separate and apart from the coverage and reimbursement we seek for our product candidates, once approved. There is significant uncertainty regarding our and our collaborators ability to obtain coverage and adequate reimbursement for any companion diagnostic test for the same reasons applicable to our product candidates. If insurance coverage and reimbursement for companion diagnostic tests for our product candidates is inadequate, utilization may be low, and patient tumors may not be comprehensively screened for the presence of the genetic markers that predict response to our product candidates.

***Product liability lawsuits against us could cause us to incur substantial liabilities and to limit commercialization of any products that we may develop.***

We face an inherent risk of product liability exposure related to the testing of our product candidates in human clinical trials and will face an even greater risk if we commercially sell any products that we may develop. If we cannot successfully defend ourselves against claims that our product candidates or products caused injuries, we will incur substantial liabilities. Regardless of merit or eventual outcome, liability claims may result in:

- decreased demand for any product candidates or products that we may develop;
- injury to our reputation and significant negative media attention;
- withdrawal of clinical trial participants;
- significant costs to defend the related litigation;
- substantial monetary awards to clinical trial participants or patients;
- loss of revenue;
- reduced resources of our management to pursue our business strategy; and
- the inability to commercialize any products that we may develop.

Our current product liability insurance coverage may not be adequate to cover all liabilities that we may incur. We may need to increase our insurance coverage as we expand our clinical trials or if we commence commercialization of our product candidates. Insurance coverage is increasingly expensive. We may not be able to maintain insurance coverage at a reasonable cost or in an amount adequate to satisfy any liability that may arise.

**Risks Related to Employee Matters, Managing Growth and Macroeconomic Conditions**

***We currently have a limited number of employees, are highly dependent on our Chief Executive Officer and our future success depends on our ability to retain key executives and to attract, retain and motivate qualified personnel.***

We are a clinical-stage company with a limited operating history, and, as of December 31, 2019, we had only 57 full-time employees and three part-time employees. We are highly dependent on the expertise of Troy E. Wilson, Ph.D., J.D., our President and Chief Executive Officer, as well as the other principal members of our management, scientific and clinical teams. Although we have entered into employment letter agreements with our executive officers, each of them may terminate their employment with us at any time. We do not maintain “key person” insurance for any of our executives or other employees.

Recruiting and retaining qualified scientific, clinical, manufacturing and sales and marketing personnel will also be critical to our success. The loss of the services of our executive officers or other key employees could impede the achievement of our research, development and commercialization objectives and seriously harm our ability to successfully

implement our business strategy. Furthermore, replacing executive officers and key employees may be difficult and may take an extended period of time because of the limited number of individuals in our industry with the breadth of skills and experience required to successfully develop, gain regulatory approval of and commercialize products. Competition to hire from this limited pool is intense, and we may be unable to hire, train, retain or motivate these key personnel on acceptable terms given the competition among numerous pharmaceutical and biotechnology companies for similar personnel. We also experience competition for the hiring of scientific and clinical personnel from universities and research institutions. In addition, we rely on consultants and advisors, including scientific and clinical advisors, to assist us in formulating our discovery and preclinical development and commercialization strategy. Our consultants and advisors may be employed by employers other than us and may have commitments under consulting or advisory contracts with other entities that may limit their availability to us. If we are unable to continue to attract and retain high quality personnel, our ability to pursue our growth strategy will be limited.

***We expect to expand our development and regulatory capabilities and potentially implement sales, marketing and distribution capabilities, and as a result, we may encounter difficulties in managing our growth, which could disrupt our operations.***

We expect to experience significant growth in the number of our employees and the scope of our operations, particularly in the areas of regulatory affairs and commercial, if any of our product candidates receives marketing approval, sales, marketing and distribution. To manage our anticipated future growth, we must continue to implement and improve our managerial, operational and financial systems, expand our facilities and continue to recruit and train additional qualified personnel. Due to our limited financial resources and the limited experience of our management team in managing a company with such anticipated growth, we may not be able to effectively manage the expansion of our operations or recruit and train additional qualified personnel. The expansion of our operations may lead to significant costs and may divert our management and business development resources. Any inability to manage growth could delay the execution of our business plans or disrupt our operations.

***Unfavorable global economic conditions could adversely affect our business, financial condition or results of operations.***

Our results of operations could be adversely affected by general conditions in the global economy and in the global financial markets. The recent global financial crisis caused extreme volatility and disruptions in the capital and credit markets. A severe or prolonged economic downturn, such as the recent global financial crisis, could result in a variety of risks to our business, including our ability to raise additional capital when needed on acceptable terms, if at all. This is particularly true in Europe, which is undergoing a continued severe economic crisis. A weak or declining economy could also strain our suppliers, possibly resulting in supply disruption. Any of the foregoing could harm our business and we cannot anticipate all of the ways in which the current economic climate and financial market conditions could adversely impact our business.

The United Kingdom's referendum to leave the European Union or "Brexit," has and may continue to cause disruptions to capital and currency markets worldwide. The full impact of the Brexit decision, however, remains uncertain. Pursuant to the formal withdrawal arrangements between the United Kingdom and the European Union, the United Kingdom will be subject to a transition period until December 31, 2020, or the Transition Period. Negotiations between the United Kingdom and the European Union are expected to continue in relation to the customs and trading relationship between the United Kingdom and the European Union following the expiry of the Transition Period. During the Transition Period and subsequent period of negotiation, our results of operations and access to capital may be negatively affected by interest rate, exchange rate and other market and economic volatility, as well as regulatory and political uncertainty. Brexit may also have a detrimental effect on our customers, distributors and suppliers, which would, in turn, adversely affect our financial condition.

***Our business could be negatively impacted by cyber security threats.***

In the ordinary course of our business, we use our data centers and our networks to store and access our proprietary business information. We face various cyber security threats, including cyber security attacks to our information technology infrastructure and attempts by others to gain access to our proprietary or sensitive information. The procedures and controls we use to monitor these threats and mitigate our exposure may not be sufficient to prevent cyber security incidents. The result of these incidents could include disrupted operations, lost opportunities, misstated financial data, liability for stolen assets or information, increased costs arising from the implementation of additional security protective measures, litigation and reputational damage. Additionally, theft of our intellectual property or proprietary business information could require substantial expenditures to remedy. Any remedial costs or other liabilities related to cyber security incidents may not be fully insured or indemnified by other means.

***Our business and operations would suffer in the event of system failures.***

Despite the implementation of security measures, our internal computer systems and those of our CROs, collaborators and third-parties on whom we rely are vulnerable to damage from computer viruses, unauthorized access, natural disasters, terrorism, war and telecommunication and electrical failures. While we have not experienced any such system failure, accident or security breach to date, if such an event were to occur and cause interruptions in our operations, it could result in a material disruption of our drug development programs. For example, the loss of clinical trial data from completed or ongoing or planned clinical trials could result in delays in our regulatory approval efforts and we may incur substantial costs to attempt to recover or reproduce the data. If any disruption or security breach resulted in a loss of or damage to our data or applications, or inappropriate disclosure of confidential or proprietary information, we could incur liability and/or the further development of our product candidates could be delayed.

***Our operations are vulnerable to interruption by natural disasters, power loss, terrorist activity and other events beyond our control, the occurrence of which could materially harm our business.***

Businesses located in California have, in the past, been subject to electrical blackouts as a result of a shortage of available electrical power, and any future blackouts could disrupt our operations. We are vulnerable to a major earthquake, wildfire and other natural disasters, and we have not undertaken a systematic analysis of the potential consequences to our business as a result of any such natural disaster and do not have an applicable recovery plan in place. We do not carry any business interruption insurance that would compensate us for actual losses from interruption of our business that may occur, and any losses or damages incurred by us could cause our business to materially suffer.

***Risks Related to Ownership of our Common Stock***

***Our stock price may fluctuate significantly and you may have difficulty selling your shares based on current trading volumes of our stock.***

Our common stock has been listed on the Nasdaq Global Select Market, or Nasdaq, under the symbol “KURA” since November 5, 2015. The high and low price per share of our common stock as reported by Nasdaq during the period from November 5, 2015 until December 31, 2019, were \$24.03 and \$2.50, respectively. We cannot predict the extent to which investor interest in our company will sustain an active trading market on Nasdaq or any other exchange in the future. We have several stockholders, including affiliated stockholders, who hold substantial blocks of our stock. Sales of large numbers of shares by any of our large stockholders could adversely affect our trading price, particularly given our small historic trading volumes. If stockholders holding shares of our common stock sell, indicate an intention to sell, or if it is perceived that they will sell, substantial amounts of their common stock in the public market, the trading price of our common stock could decline. Moreover, if an active trading market is not sustained or if the volume of trading is limited, holders of our common stock may have difficulty selling their shares.

***The price of our common stock may be volatile and may be influenced by numerous factors, some of which are beyond our control.***

The market for our common stock could fluctuate substantially due to a variety of factors, some of which may be beyond our control. In addition to the factors discussed in this “Risk Factors” section and elsewhere in this report, these factors include:

- the product candidates we seek to pursue, and our ability to obtain rights to develop, commercialize and market those product candidates;
- our decision to initiate a clinical trial, not to initiate a clinical trial or to terminate an existing clinical trial;
- actual or anticipated adverse results or delays in our clinical trials;
- our failure to commercialize our product candidates, if approved;
- changes in the structure of healthcare payment systems;
- unanticipated serious safety concerns related to the use of any of our product candidates;
- adverse regulatory decisions;
- additions or departures of key scientific or management personnel;

- changes in laws or regulations applicable to our product candidates, including without limitation clinical trial requirements for approvals;
- disputes or other developments relating to patents and other proprietary rights and our ability to obtain patent protection for our product candidates;
- our dependence on third parties, including CROs as well as our potential partners that produce companion diagnostic products;
- failure to meet or exceed any financial guidance or expectations regarding development milestones that we may provide to the public;
- actual or anticipated variations in quarterly operating results, liquidity or other indicators of our financial condition;
- failure to meet or exceed the estimates and projections of the investment community;
- overall performance of the equity markets and other factors that may be unrelated to our operating performance or the operating performance of our competitors, including changes in market valuations of similar companies;
- market conditions or trends in the biotechnology and biopharmaceutical industries;
- introduction of new products offered by us or our competitors;
- announcements of significant acquisitions, strategic partnerships, joint ventures or capital commitments by us or our competitors;
- our ability to maintain an adequate rate of growth and manage such growth;
- issuances of debt or equity securities;
- sales of our common stock by us or our stockholders in the future, or the perception that such sales could occur;
- trading volume of our common stock;
- ineffectiveness of our internal control over financial reporting or disclosure controls and procedures;
- general political and economic conditions;
- effects of natural or man-made catastrophic events; and
- other events or factors, many of which are beyond our control.

In addition, the stock market in general, and the stocks of small-cap biotechnology companies in particular, have experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of these companies. Broad market and industry factors may negatively affect the market price of our common stock, regardless of our actual operating performance. These events may also lead to securities litigation, which can be expensive and time-consuming to defend, regardless of the merit or outcome. The realization of any of the above risks or any of a broad range of other risks, including those described in these “Risk Factors,” could have a dramatic and material adverse impact on the market price of our common stock.

***We have broad discretion in the use of our cash and may not use our cash effectively, which could adversely affect our results of operations.***

Our management has broad discretion in the application of our cash resources. Because of the number and variability of factors that will determine our use of our cash resources, our management might not apply our cash in ways that ultimately increase the value of our common stock. The failure by our management to apply our cash effectively could harm our business. Pending their use, we may invest our cash in short-term, investment-grade, interest-bearing securities. These investments may not yield a favorable return to our stockholders. If we do not invest or apply our cash in ways that enhance stockholder value, we may fail to achieve expected financial results, which could cause our stock price to decline.

***FINRA sales practice requirements may limit a stockholder’s ability to buy and sell our stock.***

The Financial Industry Regulatory Authority, or FINRA, has adopted rules requiring that, in recommending an investment to a customer, a broker-dealer must have reasonable grounds for believing that the investment is suitable for that customer. Prior to recommending speculative or low-priced securities to their non-institutional customers, broker-dealers

must make reasonable efforts to obtain information about the customer's financial status, tax status, investment objectives and other information. Under interpretations of these rules, FINRA has indicated its belief that there is a high probability that speculative or low-priced securities will not be suitable for at least some customers. If these FINRA requirements are applicable to us or our securities, they may make it more difficult for broker-dealers to recommend that at least some of their customers buy our common stock, which may limit the ability of our stockholders to buy and sell our common stock and could have an adverse effect on the market for and price of our common stock.

***The resale of shares covered by our effective shelf registration statement could adversely affect the market price of our common stock in the public market, should one develop, which result would in turn negatively affect our ability to raise additional equity capital.***

The sale, or availability for sale, of our common stock in the public market may adversely affect the prevailing market price of our common stock and may impair our ability to raise additional capital by selling equity or equity-linked securities. We filed a shelf registration statement with the SEC, which has been declared effective, to register the resale of 13,947,599 shares of our common stock. The shelf registration statement permits the resale of these shares at any time, subject to restrictions under applicable law. The resale of a significant number of shares of our common stock in the public market could adversely affect the market price for our common stock and make it more difficult for you to sell shares of our common stock at times and prices that you feel are appropriate. Furthermore, we expect that, because there are a large number of shares registered pursuant to the shelf registration statement, the selling stockholders named in such registration statement will continue to offer shares covered by the shelf registration statement for a significant period of time, the precise duration of which cannot be predicted. Accordingly, the adverse market and price pressures resulting from an offering pursuant to the shelf registration statement may continue for an extended period of time and continued negative pressure on the market price of our common stock could have a material adverse effect on our ability to raise additional equity capital.

***We will incur increased costs and demands upon management as a result of complying with the laws and regulations affecting public companies, which could harm our operating results.***

As a public company, we have incurred and will incur significant legal, accounting and other expenses, including costs associated with public company reporting requirements. We also have incurred and will incur costs associated with current corporate governance requirements, including requirements under Section 404 and other provisions of the Sarbanes-Oxley Act of 2002, or Sarbanes-Oxley Act, as well as rules implemented by the SEC or Nasdaq or any other stock exchange or inter-dealer quotations system on which our common stock may be listed in the future. The expenses incurred by public companies for reporting and corporate governance purposes have increased dramatically in recent years.

***If we fail to maintain proper and effective internal controls, our ability to produce accurate and timely financial statements could be impaired, which could harm our operating results, our ability to operate our business and investors' views of us.***

We are required to comply with certain aspects of Section 404 of the Sarbanes-Oxley Act. Section 404 of the Sarbanes-Oxley Act requires public companies to, among other things, conduct an annual review and evaluation of their internal controls over financial reporting. Ensuring that we have adequate internal financial and accounting controls and procedures in place so that we can produce accurate financial statements on a timely basis is a costly and time-consuming effort that requires frequent evaluation. Our failure to maintain the effectiveness of our internal controls in accordance with the requirements of the Sarbanes-Oxley Act could have a material adverse effect on our business. We could lose investor confidence in the accuracy and completeness of our financial reports, which could have an adverse effect on the price of our common stock. In addition, if our efforts to comply with new or changed laws, regulations and standards differ from the activities intended by regulatory or governing bodies, regulatory authorities may initiate legal proceedings against us and our business may be harmed.

***Future sales and issuances of our common stock or rights to purchase common stock, including pursuant to our equity incentive plans, outstanding stock options, warrants, or otherwise, could result in dilution to the percentage ownership of our stockholders and could cause our stock price to fall.***

We expect that significant additional capital will be needed in the future to continue our planned operations. To raise capital, we may sell common stock, convertible securities or other equity securities in one or more transactions at prices and in a manner we determine from time to time.

If we sell common stock, convertible securities or other equity securities in more than one transaction, investors in a prior transaction may be materially diluted by subsequent sales. Additionally, any such sales may result in material dilution to our existing stockholders, and new investors could gain rights, preferences and privileges senior to those of holders of our common stock. Further, any future sales of our common stock by us or resales of our common stock by our existing stockholders or the perception that such sales could occur could cause the market price of our common stock to decline. In March 2019, we entered into the 2019 ATM facility under which we may offer and sell, from time to time, at our sole discretion, shares of our common stock having an aggregate offering price of up to \$75.0 million. We have not yet sold any shares of our common stock under the 2019 ATM facility. In June 2019, we completed a public offering in which we sold an aggregate of 6,785,000 shares of common stock at a price of \$17.00 per share. Net proceeds from the public offering, after deducting underwriting discounts, commissions and offering expenses, were approximately \$108.1 million.

Pursuant to our Amended and Restated 2014 Equity Incentive Plan, or 2014 Plan, we are authorized to grant equity awards consisting of shares of our common stock to our employees, directors and consultants. As of December 31, 2019, we had 800,835 shares of common stock reserved for future issuance under the 2014 Plan and options to purchase up to an aggregate of 4,080,031 shares of common stock outstanding. The number of shares available for future grant under the 2014 Plan will automatically increase on January 1 of each year through January 1, 2025 by 4% of the total number of shares of our common stock outstanding on December 31 of the preceding calendar year, subject to the ability of our board of directors to take action to reduce the size of the increase in any given year. On January 1, 2020, an automatic increase pursuant to the 2014 Plan occurred, resulting in 1,815,361 additional shares available for future grant under the 2014 Plan.

In addition, we may grant or provide for the grant of rights to purchase shares of our common stock pursuant to our 2015 Employee Stock Purchase Plan, or ESPP. As of December 31, 2019, we had 199,162 shares of common stock reserved for future issuance under the ESPP. The number of shares of our common stock reserved for issuance under the ESPP will automatically increase on January 1 of each calendar year through January 1, 2025 by the lesser of 1% of the total number of shares of our common stock outstanding on December 31 of the preceding calendar year and 2,000,000 shares, subject to the ability of our board of directors to take action to reduce the size of the increase in any given year. In December 2019, the board of directors elected not to automatically increase the number of shares of our common stock reserved for issuance under the ESPP in 2020. In addition, a warrant to purchase up to 33,988 shares of our common stock at an exercise price of \$3.31 per share was outstanding as of December 31, 2019.

Any future grants of options, warrants or other securities exercisable or convertible into our common stock, or the exercise or conversion of such shares, and any sales of such shares in the market, could have an adverse effect on the market price of our common stock.

***Anti-takeover provisions under our charter documents and Delaware law could delay or prevent a change of control which could limit the market price of our common stock and may prevent or frustrate attempts by our stockholders to replace or remove our current management.***

Our amended and restated certificate of incorporation, as amended, and amended and restated bylaws contain provisions that could delay or prevent a change of control of our company or changes in our board of directors that our stockholders might consider favorable. Some of these provisions include:

- a prohibition on stockholder action through written consent, which requires that all stockholder actions be taken at a meeting of our stockholders;
- a requirement that special meetings of stockholders be called only by the chairman of the board of directors, the chief executive officer, or by a majority of the total number of authorized directors;
- advance notice requirements for stockholder proposals and nominations for election to our board of directors;
- division of our board of directors into three classes;
- a requirement that no member of our board of directors may be removed from office by our stockholders except for cause and, in addition to any other vote required by law, upon the approval of not less than 66 $\frac{2}{3}$ % of all outstanding shares of our voting stock then entitled to vote in the election of directors;
- a requirement of approval of not less than 66 $\frac{2}{3}$ % of all outstanding shares of our voting stock to amend any bylaws by stockholder action or to amend specific provisions of our certificate of incorporation;

- the authority of the board of directors to issue preferred stock on terms determined by the board of directors without stockholder approval and which preferred stock may include rights superior to the rights of the holders of common stock; and
- provide that the Court of Chancery of the State of Delaware will be the sole and exclusive forum for (i) any derivative action or proceeding brought on our behalf, (ii) any action asserting a claim of breach of a fiduciary duty owed by any of our directors or officers to us or our stockholders, (iii) any action asserting a claim against us arising pursuant to any provision of the Delaware General Corporation Law or our certificate of incorporation or bylaws, or (iv) any action asserting a claim against us governed by the internal affairs doctrine (these choice of forum provisions do not apply to suits brought to enforce a duty or liability created by the Securities Act, the Exchange Act, or any other claim for which the federal courts have exclusive jurisdiction).

In addition, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporate Law, which may prohibit certain business combinations with stockholders owning 15% or more of our outstanding voting stock. These anti-takeover provisions and other provisions in our amended and restated certificate of incorporation, as amended, and amended and restated bylaws could make it more difficult for stockholders or potential acquirers to obtain control of our board of directors or initiate actions that are opposed by the then-current board of directors and could also delay or impede a merger, tender offer or proxy contest involving our company. These provisions could also discourage proxy contests and make it more difficult for you and other stockholders to elect directors of your choosing or cause us to take other corporate actions you desire. Any delay or prevention of a change of control transaction or changes in our board of directors could cause the market price of our common stock to decline.

***Changes in tax laws or regulations that are applied adversely to us or our customers may have a material adverse effect on our business, cash flow, financial condition or results of operations.***

New income, sales, use or other tax laws, statutes, rules, regulations or ordinances could be enacted at any time, which could affect the tax treatment of our domestic and foreign earnings. Any new taxes could adversely affect our domestic and international business operations, and our business and financial performance. Further, existing tax laws, statutes, rules, regulations or ordinances could be interpreted, changed, modified or applied adversely to us. For example, legislation enacted in 2017, informally titled the Tax Cuts and Jobs Act, significantly revised the Internal Revenue Code of 1986, as amended. Future guidance from the Internal Revenue Service and other tax authorities with respect to the Tax Cuts and Jobs Act may affect us, and certain aspects of the Tax Cuts and Jobs Act could be repealed or modified in future legislation. In addition, it is uncertain if and to what extent various states will conform to the Tax Cuts and Jobs Act or any newly enacted federal tax legislation. Changes in corporate tax rates, the realization of net deferred tax assets relating to our operations, the taxation of foreign earnings, and the deductibility of expenses under the Tax Cuts and Jobs Act or future reform legislation could have a material impact on the value of our deferred tax assets, could result in significant one-time charges, and could increase our future U.S. tax expense.

***Our ability to use net operating loss carryforwards and certain other tax attributes to offset future taxable income or taxes may be limited.***

Under the Tax Cuts and Jobs Act, federal net operating losses incurred in 2018 and in future years may be carried forward indefinitely, but the deductibility of such federal net operating losses is limited. It is uncertain if and to what extent various states will conform to the Tax Cuts and Jobs Act. In addition, under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, and corresponding provisions of state law, if a corporation undergoes an “ownership change,” which is generally defined as a greater than 50% change in its equity ownership value over a three-year period, the corporation’s ability to use its pre-change net operating loss carryforwards and other pre-change tax attributes to offset its post-change income or taxes may be limited. We have experienced an ownership change in the past and we may also experience additional ownership changes in the future as a result of subsequent shifts in our stock ownership, some of which may be outside of our control. If an ownership change occurs and our ability to use our net operating loss carryforwards is materially limited, it would harm our future operating results by effectively increasing our future tax obligations. In addition, at the state level, there may be periods during which the use of net operating loss carryforwards is suspended or otherwise limited, which could accelerate or permanently increase state taxes owed. As a result, if we earn net taxable income, we may be unable to use all or a material portion of our net operating loss carryforwards and other tax attributes, which could potentially result in increased future tax liability to us and adversely affect our future cash flows.

*We do not intend to pay cash dividends on our capital stock in the foreseeable future.*

We have never declared or paid any dividends on our common stock and do not anticipate paying any dividends in the foreseeable future. Any payment of cash dividends in the future would depend on our financial condition, contractual restrictions, including under our term loan facility, solvency tests imposed by applicable corporate laws, results of operations, anticipated cash requirements and other factors and will be at the discretion of our board of directors. Our stockholders should not expect that we will ever pay cash or other dividends on our outstanding capital stock.

**Item 1B. Unresolved Staff Comments.**

None.

**Item 2. Properties.**

We occupy approximately 5,216 rentable square feet of office space in San Diego, California under a sublease with Araxes that expires in April 2020. In January 2020, we entered into a lease for 13,420 square feet of office space in San Diego, California which is expected to commence in May 2020, in connection with the expiration of the sublease for our current corporate headquarters. We also occupy approximately 3,766 square feet of office space in Cambridge, Massachusetts under a lease that expires in August 2020. We believe that our facilities are sufficient to meet our current needs and that suitable additional space will be available as and when needed.

**Item 3. Legal Proceedings.**

We are not currently a party to, nor is our property the subject of, any material legal proceedings.

**Item 4. Mine Safety Disclosures.**

Not applicable.

## PART II

### Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

#### Market Information

Since November 5, 2015, our common stock has been listed on the Nasdaq Global Select Market under the symbol “KURA”.

#### Holders of Record

As of February 20, 2020, there were approximately 128 holders of record of our common stock, which does not include beneficial owners of our common stock whose shares are held in the name of various dealers, clearing agencies, banks, brokers, and other fiduciaries.

#### Dividend Policy

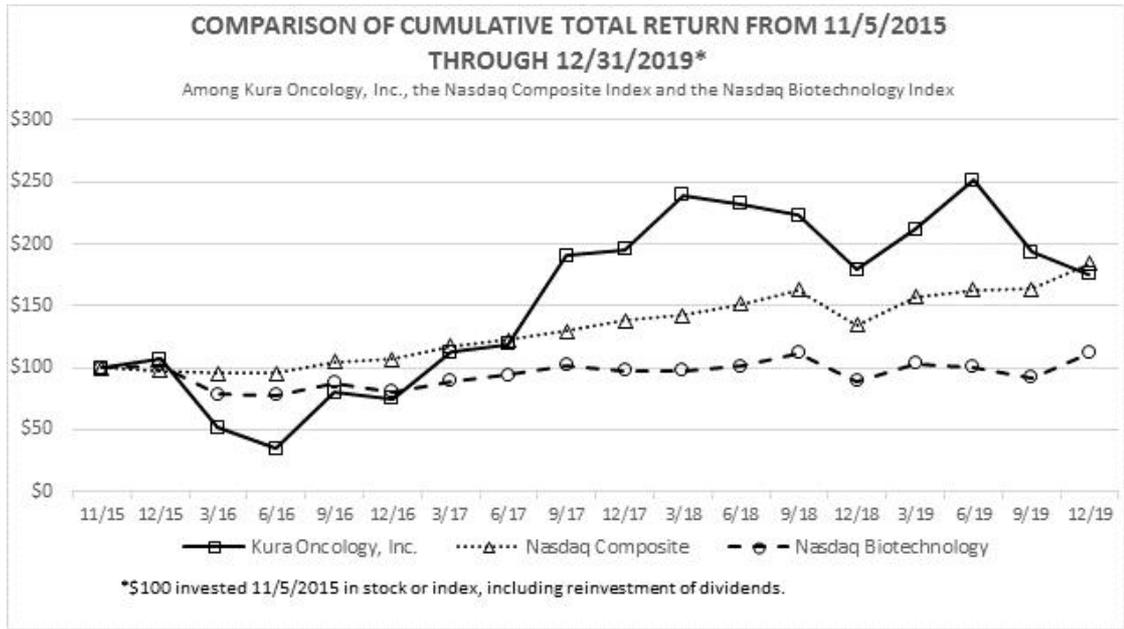
We have never paid cash dividends on any of our capital stock and we currently intend to retain our future earnings, if any, to fund the development and growth of our business. We do not intend to pay cash dividends to holders of our common stock in the foreseeable future. In addition, our ability to pay cash dividends is currently prohibited by the terms of our term loan facility, subject to customary exceptions. Any future determination related to our dividend policy will be made at the discretion of our board of directors and will depend on our financial condition, results of operations, capital requirements and other factors our board of directors deems relevant.

#### Securities Authorized for Issuance Under Equity Compensation Plans

Information about securities authorized for issuance under our equity compensation plans is incorporated herein by reference to Item 12 of Part III of this Annual Report.

### Stock Performance Graph and Cumulative Total Return

The graph below shows the cumulative total stockholder return assuming the investment of \$100 on November 5, 2015, (and the reinvestment of dividends thereafter) in each of (i) Kura Oncology, Inc.'s common stock, (ii) the Nasdaq Composite Index and (iii) the Nasdaq Biotechnology Index. The comparisons in the graph below are based upon historical data and are not indicative of, or intended to forecast, future performance of our common stock or Indexes.



The foregoing graph is furnished solely with this Annual Report, and is not filed with this Annual Report, and shall not be deemed incorporated by reference into any other filing under the Securities Act or the Exchange Act, whether made by us before or after the date hereof, regardless of any general incorporation language in any such filing, except to the extent we specifically incorporate this material by reference into any such filing.

**Item 6. Selected Financial Data.**

The following table presents selected historical financial data for the years ended December 31, 2019, 2018, 2017, 2016 and 2015. All the selected historical financial data has been derived from our audited financial statements and is stated in thousands, except for per share data.

Please read the following selected financial data in conjunction with Item 7, “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our audited financial statements and related notes thereto included elsewhere in this Annual Report.

	<b>Years Ended December 31,</b>				
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>2015</b>
<b>Statement of Operations Data:</b>	(in thousands, except per share data)				
Operating expenses	\$ 67,479	\$ 62,883	\$ 36,077	\$ 28,367	\$ 23,865
Net loss	\$ (63,140 )	\$ (60,447 )	\$ (35,434 )	\$ (27,560 )	\$ (22,625)
Basic and diluted net loss per share	\$ (1.51 )	\$ (1.72 )	\$ (1.52 )	\$ (1.47 )	\$ (2.28)
Shares used in computing net loss per share, basic and diluted	41,946	35,191	23,237	18,701	9,933
	<b>December 31,</b>				
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>2015</b>
<b>Balance Sheet Data:</b>	(in thousands)				
Cash, cash equivalents and short-term investments	\$ 236,891	\$ 178,985	\$ 93,145	\$ 67,790	\$ 85,746
Working capital	\$ 224,039	\$ 167,582	\$ 84,610	\$ 63,359	\$ 81,814
Total assets	\$ 241,972	\$ 182,379	\$ 95,851	\$ 69,821	\$ 87,259
Long-term liabilities	\$ 7,627	\$ 7,779	\$ 5,955	\$ 7,494	\$ 101
Accumulated deficit	\$ (212,877 )	\$ (149,737 )	\$ (89,290 )	\$ (53,856 )	\$ (26,296)
Stockholders’ equity	\$ 218,781	\$ 160,985	\$ 79,865	\$ 56,876	\$ 82,103

## Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations.

*The following discussion of the financial condition and results of operations of Kura Oncology, Inc. should be read in conjunction with the financial statements and the notes to those statements appearing in this Annual Report. Some of the information contained in this discussion and analysis or set forth elsewhere in this Annual Report, including information with respect to our plans and strategy for our business, includes forward-looking statements that involve risks, assumptions and uncertainties. Important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis include, but are not limited to, those set forth in “Item 1A. Risk Factors” in this Annual Report. All forward-looking statements included in this Annual Report are based on information available to us as of the time we file this Annual Report and, except as required by law, we undertake no obligation to update publicly or revise any forward-looking statements. For the comparison of the financial results for the fiscal years ended December 31, 2018 and 2017, see Item 7, Management’s Discussion and Analysis of Financial Condition and Results of Operations, in our Annual Report on Form 10-K for the fiscal year ended December 31, 2018, filed with the SEC on March 5, 2019.*

References to “Kura Oncology, Inc.,” “we,” “us” and “our” refer to Kura Oncology, Inc.

### Overview

We are a clinical-stage biopharmaceutical company committed to realizing the promise of precision medicines for the treatment of cancer. Our pipeline consists of small molecule product candidates that target cancer signaling pathways where there is a strong scientific and clinical rationale to improve outcomes, and we intend to pair them with molecular or cellular diagnostics to identify those patients most likely to respond to treatment. We plan to advance our product candidates through a combination of internal development and strategic partnerships while maintaining significant development and commercial rights.

Our lead product candidate, tipifarnib, is a potent, selective and orally bioavailable inhibitor of farnesyl transferase. Tipifarnib was previously studied in more than 5,000 cancer patients and demonstrated compelling and durable anti-cancer activity in certain patients with a manageable side effect profile. We are currently evaluating tipifarnib in multiple solid tumor and hematologic indications.

Our most advanced solid tumor indication for tipifarnib is in patients with HNSCC that carry mutations in the HRAS gene. In September 2017, we reported that our ongoing RUN-HN proof-of-concept Phase 2 clinical trial of tipifarnib in patients with HRAS mutant relapsed or refractory HNSCC achieved its primary efficacy endpoint. In October 2018, we reported updated data from RUN-HN showing a significant association between tumor HRAS mutant allele frequency and clinical benefit from tipifarnib. Based upon these observations, we introduced a minimum HRAS mutant variant allele frequency as an entry criterion in the RUN-HN trial. Following feedback from the FDA and other regulatory authorities, we initiated a global, multi-center, open-label, non-comparative registration-directed clinical trial of tipifarnib in HRAS mutant HNSCC in November 2018. The clinical trial has two cohorts: a treatment cohort, which we call AIM-HN, and a non-interventional screening and outcomes cohort, which we call SEQ-HN. AIM-HN is designed to enroll at least 59 evaluable HNSCC patients with high HRAS mutant variant allele frequency who have received prior platinum-based therapy. We project AIM-HN to be fully enrolled in the first quarter of 2021. In October 2019, we reported updated data from the ongoing RUN-HN trial that we believe confirms the association between HRAS mutant variant allele frequency and anti-tumor activity, and we believe further supports the design of our amended AIM-HN registration-directed trial in HRAS mutant HNSCC. On December 16, 2019, we reported that the FDA granted Fast Track Designation to tipifarnib for the treatment of patients with HRAS mutant HNSCC after progression on platinum therapy.

In September 2019, we reported that an investigator-sponsored Phase 2 clinical trial of tipifarnib in patients with relapsed or refractory urothelial carcinomas that carry HRAS mutations met its primary efficacy endpoint. The trial is being conducted at the Samsung Medical Center in Seoul, South Korea. Further analyses of the trial are ongoing, and data are expected to be presented at a future medical meeting. Another investigator-sponsored clinical trial of tipifarnib is being conducted by GECP for the treatment of patients with lung squamous cell carcinomas harboring HRAS mutations.

In addition to its activity against HRAS mutant solid tumors, we have data that supports that tipifarnib inhibits the production of CXCL12, a chemokine that binds to the receptors CXCR4 and CXCR7 and regulates a number of key cellular processes associated with cancer including proliferation, survival, migration, invasion, and metastasis. Targeting the CXCR4–CXCL12 axis has the potential of affecting CXCR4-expressing primary tumor cells, modulating the immune response, or synergizing with other anticancer therapies. As an example of using tipifarnib to affect CXCR4-expressing primary tumor cells, we have been evaluating the potential utility of tipifarnib in various lymphomas and leukemias.

CXCL12 has been reported to promote the progression of lymphomas and leukemias carrying the CXCR4 receptor. We had previously identified an association between CXCL12 expression levels and clinical benefit in patients with relapsed or refractory PTCL treated with tipifarnib. Accordingly, we designed a Phase 2 clinical trial to test the hypothesis prospectively that treatment with tipifarnib would decrease levels of CXCL12 and drive clinical benefit in patients with relapsed or refractory PTCL.

In June 2019, we reported updated interim data from this trial, which data showed a significant association between CXCL12 expression and clinical benefit, as well as clinical proof-of-concept in two pre-specified expansion cohorts: (1) patients with AITL, an aggressive form of T-cell lymphoma often characterized by high levels of CXCL12 expression and (2) patients with PTCL who lack a single nucleotide variation in the 3'-untranslated region of the CXCL12 gene. In addition, we have shown in ancillary studies that an elevated level of CXCL12 expression is a negative prognostic factor for standard-of-care PTCL therapy. Taken together, we believe these data represent the first prospective clinical validation of using tipifarnib to affect CXCR4-expressing primary tumor T-cells and enrich for clinical activity of tipifarnib in PTCL.

Given the high level of clinical activity observed among AITL patients, we continued to enroll patients to acquire more experience regarding safety and tolerability in this population. At the ASH Annual meeting in Orlando, Florida on December 8, 2019, we presented further interim results from this ongoing trial of tipifarnib showing robust and durable activity as a monotherapy in advanced AITL, including enhanced activity in AITL patients that carry variants in the KIR3DL2 gene.

Based on these results and FDA feedback from an end-of-Phase 2 meeting, we plan to initiate a registration-directed trial of tipifarnib in relapsed or refractory advanced T-cell lymphomas with a follicular helper T-cell phenotype, including AITL. This single-arm trial will target enrollment of 128 patients who are relapsed or refractory to at least one prior systemic cytotoxic therapy. The trial has two independent primary objectives –ORR in all patients enrolled and ORR in patients who carry KIR mutations. KIR mutational status will be determined retrospectively. Each of the two primary objectives has a null hypothesis of 9%, and each can be met independently. We expect to commence this trial in the second half of 2020.

The CXCL12-CXCR4 axis is also believed to be a key mediator of the interaction between cancerous myeloid cells and the bone marrow microenvironment, and these interactions are postulated to be important for resistance to chemotherapy and disease relapse in myeloid neoplasias. Given the potential for tipifarnib to modulate CXCR4-expressing primary tumor cells, we are also conducting an ongoing Phase 2 clinical trial to evaluate the potential for tipifarnib to drive clinical benefit in patients with relapsed or refractory AML and CMML. We anticipate having additional data from the CMML cohort in 2020.

In addition, in June 2019, we reported a retrospective analysis of a subset of patients from a previously conducted Phase 2 clinical trial of tipifarnib in patients with relapsed or refractory lymphomas that identified pre-treatment tumor CXCL12 expression as a potential biomarker of clinical benefit in patients with DLBCL and mycosis fungoides, the most common form of CTCL. The chemokine receptor CXCR4 and its ligand CXCL12 are believed to be implicated in the retention of B-cell precursors and B-cell homing to lymph nodes, and therefore may play an important role in B-cell development. In addition, elevated expression of CXCR4-CXCL12 axis has been reported to be associated with the pathogenesis of mycosis fungoides. Given the importance of the CXCL12-CXCR4 pathway in a number of hematologic malignancies as well as our clinical data and our retrospective analysis of prior clinical studies conducted with tipifarnib, we believe our findings support additional potential clinical development for tipifarnib in these indications.

We believe tipifarnib has the potential to synergize with other anticancer therapies through its modulation of the CXCL12-CXCR4 pathway. In January 2019, we reported the identification of a potential association between CXCL12 expression and clinical benefit from tipifarnib in patients with pancreatic cancer. We continue to do additional preclinical work to validate tipifarnib in a CXCL12-high subpopulation of pancreatic cancer patients. For example, we have generated preclinical data showing that tipifarnib can block the production of CXCL12 produced by activated pancreatic stellate cells. In addition, we have observed the potential for synergy between tipifarnib and chemotherapy in preclinical models of pancreatic cancer. We believe these preclinical data as well as our retrospective analysis of the prior clinical studies support the potential use of tipifarnib in a broader set of hematologic and solid tumor indications, including pancreatic cancer, in which the CXCL12 pathway plays a role in tumor initiation and progression, and we anticipate initiating a Phase 2 proof-of-concept clinical trial in pancreatic cancer in the second half of 2020.

Our second product candidate is KO-947, a potent and selective small molecule inhibitor of ERK which we are advancing as a potential treatment for patients with tumors that have dysregulated activity due to mutations or other mechanisms in the MAPK pathway. Our preclinical data suggest that KO-947 has anti-tumor activity in KRAS- or BRAF-mutant adenocarcinomas as well as certain subsets of squamous cell carcinomas. We have been evaluating KO-947 in a Phase 1 dose-escalation trial and believe we have reached a recommended Phase 2 dose of KO-947 as a monotherapy. We intend to initiate an evaluation cohort to evaluate the safety, pharmacokinetics, pharmacodynamics and clinical activity of KO-947 in patients with of the HNSCC and ESCC bearing chromosome 11q13 amplifications. Our goal is to generate sufficient clinical data to allow us to make a decision on potential paths forward for KO-947.

Our third product candidate is KO-539, a potent and selective small molecule inhibitor of the menin-MLL protein-protein interaction. We have generated preclinical data that support the potential anti-tumor activity of KO-539 in genetically defined subsets of acute leukemia, including those with rearrangements or partial tandem duplications in the MLL gene as well as those with oncogenic driver mutations in genes such as NPM1. We received orphan drug designation for KO-539 for the treatment of AML from the FDA in July 2019. We initiated our Phase 1/2 clinical trial of KO-539 in relapsed or refractory AML in September 2019. We are seeking to achieve a recommended Phase 2 dose for KO-539 with the potential to enrich in NPM1-mutant AML and MLL-rearranged genetically defined subgroups by the end of 2020.

### ***Liquidity Overview***

As of December 31, 2019, we had cash, cash equivalents and short-term investments of \$236.9 million. Under the terms of the SVB Loan Agreement as described below, we may, at our sole discretion, borrow from the Lender up to an additional \$12.5 million at any time until May 1, 2020. In June 2019, we completed a public offering for net proceeds of approximately \$108.1 million. In March 2019, we entered into the 2019 ATM facility, under which we may offer and sell, from time to time, at our sole discretion, shares of our common stock having an aggregate offering price of up to \$75.0 million. We have not yet sold any shares of our common stock under the 2019 ATM facility. To date, we have not generated any revenues from product sales, and we do not have any approved products. Since our inception, we have funded our operations primarily through equity and debt financings. We anticipate that we will require significant additional financing in the future to continue to fund our operations as discussed more fully below under the heading “Liquidity and Capital Resources.”

### **Financial Operations Overview**

#### ***Research and Development Expenses***

We focus on the research and development of our product programs. Our research and development expenses consist of costs associated with our research and development activities including salaries, benefits, share-based compensation and other personnel costs, clinical trial costs, manufacturing costs for non-commercial products, fees paid to external service providers and consultants, facilities costs and supplies, equipment and materials used in clinical and preclinical studies and research and development. All such costs are charged to research and development expense as incurred. Payments that we make in connection with in-licensed technology for a particular research and development project that have no alternative future uses in other research and development projects or otherwise and therefore, no separate economic values, are expensed as research and development costs at the time such costs are incurred. As of December 31, 2019, we have no in-licensed technologies that have alternative future uses in research and development projects or otherwise.

We cannot determine with certainty the timing of initiation, the duration or the completion costs of current or future preclinical studies and clinical trials of our product candidates. At this time, due to the inherently unpredictable nature of preclinical and clinical development, we are unable to estimate with any certainty the costs we will incur and the timelines we will require in the continued development of our product candidates and our other pipeline programs. Clinical and preclinical development timelines, the probability of success and development costs can differ materially from expectations. Our future research and development expenses will depend on the preclinical and clinical success of each product candidate that we develop, as well as ongoing assessments of the commercial potential of such product candidates. In addition, we cannot forecast which product candidates may be subject to future collaborations, when such arrangements will be secured, if at all, and to what degree such arrangements would affect our development plans and capital requirements.

Completion of clinical trials may take several years or more, and the length of time generally varies according to the type, complexity, novelty and intended use of a product candidate. The cost of clinical trials may vary significantly over the life of a project as a result of differences arising during clinical development, including, among others:

- per patient clinical trial costs;
- the number of clinical trials required for approval;
- the number of sites included in the clinical trials;
- the length of time required to enroll suitable patients;
- the number of doses that patients receive;
- the number of patients that participate in the clinical trials;
- the drop-out or discontinuation rates of patients;
- the duration of patient follow-up;
- potential additional safety monitoring or other studies requested by regulatory agencies;
- the number and complexity of analyses and tests performed during the clinical trial;
- the phase of development of the product candidate; and
- the efficacy and safety profile of the product candidate.

### **General and Administrative Expenses**

General and administrative expenses consist primarily of salaries, benefits, share-based compensation and other personnel costs for employees in executive, finance, business development and support functions. Other significant general and administrative expenses include the costs associated with obtaining and maintaining our patent portfolio, professional services for audit, legal, investor and public relations, corporate activities and allocated facilities.

### **Other Income (Expense)**

Other income (expense) consists primarily of management fee income, interest income, interest expense and loss on the extinguishment of debt. Management fee income is earned in accordance with the management services agreement, as amended, with Araxes. Interest expense mainly consists of interest on long-term debt. In 2018, we recorded a loss on the extinguishment of debt in connection with our entry into the SVB Loan Agreement in November 2018.

### **Income Taxes**

We have incurred net losses and have not recorded any U.S. federal or state income tax benefits for the losses as they have been offset by valuation allowances.

## **Results of Operations**

### **Comparison of Fiscal Years Ended December 31, 2019 and 2018**

The following table sets forth our results of operations for the years presented, in thousands:

	<b>Years Ended December 31,</b>		<b>Change</b>
	<b>2019</b>	<b>2018</b>	
Research and development expenses	\$ 47,826	\$ 46,787	\$ 1,039
General and administrative expenses	19,653	16,096	3,557
Other income, net	4,339	2,436	1,903

*Research and Development Expenses.* The following table illustrates the components of our research and development expenses for the years presented, in thousands:

	Years Ended December 31,		Change
	2019	2018	
Tipifarnib-related costs	\$ 26,835	\$ 27,762	\$ (927)
KO-947-related costs	3,416	3,149	267
KO-539-related costs	2,496	3,946	(1,450)
Personnel costs and other expenses	11,652	7,307	4,345
Share-based compensation expense	3,427	4,623	(1,196)
Total research and development expenses	<u>\$ 47,826</u>	<u>\$ 46,787</u>	<u>\$ 1,039</u>

The decrease in tipifarnib-related research and development expenses for the year ended December 31, 2019 compared to 2018 was primarily due to decreases of \$1.4 million in companion diagnostics and \$1.1 million in clinical supply manufacturing activities; offset partly by an increase of \$1.5 million in clinical trial costs. The decrease in KO-539-related research and development expenses was primarily due to the completion of IND-enabling activities in 2018. The Phase 1/2 clinical trial for KO-539 was initiated in September 2019. Personnel costs and other expenses include employee salaries and related expenses, facilities expense and overhead expenses. The increase in personnel costs and other expenses was to support our registration-directed clinical trial for tipifarnib and Phase 1/2 clinical trial of KO-539. The decrease in non-cash share-based compensation expense was mainly due to restricted stock awards that became fully vested in 2018. We expect our research and development expenses to increase in future periods as we continue to advance clinical development and research activities for tipifarnib, KO-947 and KO-539.

*General and Administrative Expenses.* The increase in general and administrative expenses for the year ended December 31, 2019 compared to 2018 was primarily due to increases of \$2.0 million in non-cash share-based compensation and \$1.8 million in personnel costs. We expect our general and administrative expenses to increase in future periods to support our planned increase in research and development activities and pre-commercialization efforts.

*Other income, net.* The increase in other income, net, for the year ended December 31, 2019 compared to 2018 was primarily due to an increase of \$1.5 million in interest income.

## Liquidity and Capital Resources

Since our inception, we have funded our operations primarily through equity and debt financings. We have devoted our resources to funding research and development programs, including discovery research, preclinical and clinical development activities.

In June 2019, we completed a public offering in which we sold an aggregate of 6,785,000 shares of common stock at a price of \$17.00 per share. Net proceeds from the public offering, after deducting underwriting discounts, commissions and offering expenses, were approximately \$108.1 million.

In March 2019, we entered into the 2019 ATM facility under which we may offer and sell, from time to time, at our sole discretion, shares of our common stock having an aggregate offering price of up to \$75.0 million. We have not yet sold any shares of our common stock under the 2019 ATM facility.

In November 2018, we entered into the SVB Loan Agreement, providing for up to \$20.0 million in a series of term loans. Upon entering into the SVB Loan Agreement, we borrowed \$7.5 million, or Term A Loan, the proceeds of which, in part, were used to pay off the outstanding balance of the debt under the loan and security agreement with Oxford Finance LLC and Silicon Valley Bank dated April 27, 2016, as amended in May 2017 and October 2017, or the SVB-Oxford Term Loan. Net proceeds from the Term A Loan, after payoff of the SVB-Oxford Term Loan, were approximately \$0.6 million. Under the terms of the SVB Loan Agreement, we may, at our sole discretion, borrow up to an additional \$12.5 million at any time until May 1, 2020, or Term B Loan, and together with Term A Loan, the Term Loans. In addition, each Term B Loan must be in an amount equal to the lesser of \$5.0 million or the amount that is remaining under the Term B Loan. All of the Term Loans will be due on the scheduled maturity date of May 1, 2023, or Maturity Date. Repayment of the Term Loans is interest only through November 30, 2020, followed by 30 equal monthly payments of principal plus accrued interest commencing on December 1, 2020. The per annum interest rate for the Term Loans is the greater of (i) 5.50% and (ii) the sum of (a) the prime rate reported in The Wall Street Journal plus (b) 0.25%. In addition, a final payment of 7.75% of the

amounts of the Term Loans drawn will be due on the earlier of the Maturity Date, acceleration or prepayment of the Term Loans. If we elect to prepay the Term Loans, a prepayment fee equal to 1% or 2% of the then outstanding principal balance also will be due, depending upon when the prepayment occurs. See Note 7, Long-Term Debt, in the Notes to Financial Statements for further details of the term loan facility.

Our obligations under the SVB Loan Agreement are secured by substantially all of our assets other than our intellectual property, but including proceeds from the sale, licensing or other disposition of our intellectual property. Our intellectual property is subject to negative covenants, which, among other things, prohibit us from selling, transferring, assigning, mortgaging, pledging, leasing, granting a security interest in or otherwise encumbering our intellectual property, subject to limited exceptions.

We have incurred operating losses since inception and negative cash flows from operating activities. As of December 31, 2019, we had an accumulated deficit of \$212.9 million. We expect our expenses to increase in connection with our ongoing activities, particularly as we continue the research and development of, continue and initiate clinical trials of, and seek marketing approval for, our product candidates. In addition, if we obtain marketing approval for any of our product candidates, we expect to incur significant commercialization expenses related to product sales, marketing, manufacturing and distribution to the extent that such sales, marketing and distribution are not the responsibility of potential collaborators. Furthermore, we expect to continue to incur additional costs associated with operating as a public company. Accordingly, we will need to obtain substantial additional funding in connection with our continuing operations. If we are unable to raise capital when needed or on attractive terms, we would be forced to delay, reduce or eliminate our research and development programs or future commercialization efforts.

As of December 31, 2019, we had cash, cash equivalents and short-term investments of \$236.9 million. Based on our current plans, we believe that our existing cash, cash equivalents and short-term investments will be sufficient to enable us to fund our operating expenses and capital expenditure requirements into 2022. Our future capital requirements will depend on many factors, including:

- the scope, progress, results and costs of drug discovery, pre-clinical development, laboratory testing and clinical trials for our product candidates;
- the costs, timing and outcome of regulatory review of our product candidates;
- the costs of establishing or contracting for sales, marketing and distribution capabilities if we obtain regulatory approvals to market our product candidates;
- the costs of securing and producing drug substance and drug product material for use in pre-clinical studies, clinical trials and for use as commercial supply;
- the costs of securing manufacturing arrangements for development activities and commercial production;
- the scope, prioritization and number of our research and development programs;
- the extent to which we are obligated to reimburse, or entitled to reimbursement of, clinical trial costs under future collaboration agreements, if any;
- the extent to which we acquire or in-license other product candidates and technologies;
- the success of our current or future companion diagnostic test collaborations for companion diagnostic tests; and
- the costs of preparing, filing and prosecuting patent applications, maintaining and enforcing our intellectual property rights and defending intellectual property-related claims.

To date, we have not generated any revenues from product sales, and we do not have any approved products. We do not know when, or if, we will generate any revenue from product sales. We do not expect to generate significant revenue from product sales unless and until we obtain regulatory approval of and commercialize one of our current or future product candidates. We are subject to all of the risks incident in the development of new therapeutic products, and we may encounter unforeseen expenses, difficulties, complications, delays and other unknown factors that may adversely affect our business. We anticipate that we will need substantial additional funding in connection with our continuing operations.

Until such time, if ever, as we can generate substantial product revenues, we expect to finance our cash needs through a combination of stock offerings, debt financings, collaborations, strategic partnerships or licensing arrangements. Other than our term loan facility, we do not have any committed external source of funds. Additional capital may not be available on reasonable terms, if at all. Subject to limited exceptions, our term loan facility also prohibits us from incurring indebtedness

without the prior written consent of the Lender. To the extent that we raise additional capital through the sale of stock or convertible debt securities, the ownership interest of our stockholders will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect the rights of our common stockholders. Debt financing, if available, may involve agreements that include increased fixed payment obligations and covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures, declaring dividends, selling or licensing intellectual property rights and other operating restrictions that could adversely impact our ability to conduct our business. If we raise additional funds through collaborations, strategic partnerships or licensing arrangements with third parties, we may have to relinquish valuable rights to our product candidates, including our other technologies, future revenue streams or research programs, or grant licenses on terms that may not be favorable to us. If we are unable to raise additional funds when needed, we may be unable to carry out our business plan. As a result, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts or grant rights to develop and commercialize our product candidates even if we would otherwise prefer to develop and commercialize such product candidates ourselves, and our business, financial condition and results of operations would be materially adversely affected.

The following table provides a summary of our net cash flow activities for the years presented, in thousands:

	Years Ended December 31,		Change
	2019	2018	
Net cash used in operating activities	\$ (54,760)	\$ (48,655)	\$ (6,105)
Net cash used in investing activities	(46,325)	(79,300)	32,975
Net cash provided by financing activities	111,101	132,641	(21,540)

*Operating Activities.* The increase of \$6.1 million in net cash used in operating activities for the year ended December 31, 2019 compared to 2018 was primarily due to a higher net loss of \$2.7 million and an increase of \$4.3 million in payments of accounts payable and accrued expenses, partially offset by a decrease of \$0.8 million in amortization of premiums and accretion of discounts on marketable securities.

*Investing Activities.* The decrease of \$33.0 million in net cash used in investing activities for the year ended December 31, 2019 as compared to 2018 was primarily due to an increase of \$23.1 million in maturities and sales of marketable securities and a decrease of \$9.9 million in purchases of marketable securities.

*Financing Activities.* Net cash provided by financing activities for the year ended December 31, 2019 consisted primarily of proceeds from our sale of common stock from the public offering in June 2019 totaling approximately \$108.2 million. Net cash provided by financing activities for the year ended December 31, 2018 consisted primarily of proceeds from the sale of common stock under our prior at-the-market facility with Cowen and Company, LLC in January 2018 and our public offering in July 2018 totaling approximately \$132.2 million.

#### Contractual Obligations

The following is a summary of our significant contractual obligations as of December 31, 2019, in thousands:

	Payments Due by Period				
	Total	Less than 1 Year	1-3 Years	3-5 Years	More than 5 Years
Long-term debt, including current portion <sup>(1)</sup>	\$ 7,500	\$ 250	\$ 6,000	\$ 1,250	\$ —
Interest payments on long-term debt <sup>(2)</sup>	1,506	419	488	599	—
Operating leases <sup>(3)</sup>	361	361	—	—	—
Total	<u>\$ 9,367</u>	<u>\$ 1,030</u>	<u>\$ 6,488</u>	<u>\$ 1,849</u>	<u>\$ —</u>

(1) Principal payments on our term loan facility with SVB.

(2) Interest payments on our term loan facility with SVB. The per annum interest rate for the Term Loans is the greater of (i) 5.50% and (ii) the sum of (a) the prime rate reported in The Wall Street Journal plus (b) 0.25%. The interest rate as of December 31, 2019 was 5.50%. In addition, a final payment of 7.75% of the amounts of the Term Loans drawn will be due on the earlier of the maturity date, acceleration or prepayment of the Term Loans.

(3) Future minimum lease payments under our operating leases in San Diego, California and Cambridge, Massachusetts. Excluded from the table above is the lease agreement entered into in January 2020 for new corporate headquarters in San Diego, California beginning in May 2020.

We enter into short-term and cancellable agreements in the normal course of operations with clinical sites and CROs for clinical research studies, professional consultants and various third parties for preclinical research studies, clinical supply manufacturing and other services through purchase orders or other documentation, or that are undocumented except for an invoice. Such short-term agreements are generally outstanding for periods less than one year and are settled by cash payments upon delivery of goods and services. The nature of the work being conducted under these agreements is such that, in most cases, the services may be cancelled upon prior notice of 90 days or less. Payments due upon cancellation generally consist only of payments for services provided and expenses incurred, including non-cancellable obligations of our service providers, up to the date of cancellation. These payments are not included in the table of contractual obligations above.

Excluded from the table above are milestone or contractual payment obligations contingent upon the achievement of certain milestones or events if the amount and timing of such obligations are unknown or uncertain. Our license agreements are cancelable by us with written notice within 180 days or less. We may be required to pay up to approximately \$80.0 million in milestone payments, plus sales royalties, in the event that regulatory and commercial milestones under the in-license agreement are achieved. In January 2020, we entered into a lease agreement with BRE CA Office Owner LLC for the lease of approximately 13,420 square feet of rentable area of the building located at 12730 High Bluff Drive, San Diego, California 92130, or San Diego Lease. The commencement of the San Diego Lease is expected to be May 1, 2020. The initial term of the San Diego Lease is five years and four months, to expire on August 31, 2025, and we have a one-time option to extend the San Diego Lease for a period of five additional years. The minimum rent payable under the San Diego Lease will be approximately \$58,000 per month for the first year, which amount will increase by 3.0% per year over the initial term. We expect to use the premises as our new principal executive office and for general office use.

### **Off-Balance Sheet Arrangements**

We do not have any off-balance sheet arrangements, as defined by applicable regulations of the SEC, that are reasonably likely to have a current or future material effect on our financial condition, results of operations, liquidity, capital expenditures or capital resources.

### **Critical Accounting Policies and Management Estimates**

The SEC defines critical accounting policies as those that are, in management's view, important to the portrayal of our financial condition and results of operations and demanding of management's judgment. Management's discussion and analysis of our financial condition and results of operations are based on our financial statements, which have been prepared in accordance with U.S. generally accepted accounting principles. The preparation of these financial statements required estimates and judgments that affect the reported amounts of assets, liabilities, and expenses and the disclosure of contingent assets and liabilities in the financial statements. On an ongoing basis, we evaluate our estimates and judgments, including those related to accrued expenses and share-based compensation. We base our estimates on historical experience, known trends and events, and various other factors that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

While our significant accounting policies are described in more detail in Note 2 to Financial Statements of this Annual Report, we believe the following accounting policies are critical to the judgments and estimates used in the preparation of our financial statements.

#### *Research and Development Expenses*

We make estimates of our accrued expenses as of each balance sheet date in our financial statements based on facts and circumstances known to us at that time. If the actual timing of the performance of services or the level of effort varies from the estimate, we will adjust the accrual accordingly. Nonrefundable advance payments for goods and services, including fees for process development or manufacturing and distribution of clinical supplies that will be used in future research and development activities, are deferred and recognized as expense in the period that the related goods are consumed or services are performed. Payments that we make in connection with in-licensed technology for a particular research and development project that have no alternative future uses, in other research and development projects or otherwise, and therefore no separate economic values are expensed as research and development costs at the time such costs are incurred.

### *Clinical Trial Costs and Accruals*

We accrue clinical trial costs based on work performed. In determining the amount to accrue, we rely on estimates of total costs incurred based on enrollment, the completion of clinical trials and other events. We follow this method because we believe reasonably dependable estimates of the costs applicable to various stages of a clinical trial can be made. However, the actual costs and timing of clinical trials are highly uncertain, subject to risks and may change depending on a number of factors. Differences between the actual clinical trial costs and the estimated clinical trial costs that we have accrued in any prior period are recognized in the subsequent period in which the actual costs become known. Historically, our estimated accrued expenses have approximated actual expense incurred; however, material differences could occur in the future.

### *Share-Based Payments*

We account for share-based compensation expense related to stock options granted to employees, members of our board of directors, and non-employee consultants by estimating the fair value of each stock option on the date of grant using the Black-Scholes options-pricing model, or Black-Scholes model. The Black-Scholes model requires the use of subjective assumptions, including fair value of the underlying common stock, volatility, expected term, risk free interest rate, and the expected dividend yield. The fair value of awards expected to vest are recognized and amortized on a straight-line basis over the requisite service period of the award less actual forfeitures.

### **Recently Adopted Accounting Pronouncements**

See Note 3, Recent Accounting Pronouncements, in the Notes to Financial Statements of this Annual Report.

### **Item 7A. Quantitative and Qualitative Disclosures About Market Risk.**

#### ***Interest Rate Risk***

We hold certain financial instruments for which a change in prevailing interest rates may cause the principal amount of the marketable securities to fluctuate. Financial instruments that potentially subject us to significant concentrations of credit risk consist primarily of cash, cash equivalents and short-term investments. We invest our excess cash primarily in money market funds, corporate debt securities, U.S. Treasury securities and commercial paper. The primary objectives of our investment activities are to ensure liquidity and to preserve principal while at the same time maximizing the income we receive from our marketable securities without significantly increasing risk. Additionally, we established guidelines regarding approved investments and maturities of investments, which are designed to maintain safety and liquidity. For our short-term investments, we do not believe that an increase or decrease in market rates would have a significant impact on the realized values or the statements of operations and comprehensive loss. We believe that should a 10.0% change in interest rates were to have occurred on December 31, 2019, this change would not have had a material effect on the fair value of our investment portfolio as of that date.

We are also subject to interest expense fluctuations through our Term Loans, as discussed in Note 7, Long-Term Debt, in the Notes to Financial Statements of this Annual Report, which as of December 31, 2019 bear interest at a rate equal to the greater of (i) 5.50% and (ii) the sum of (a) the prime rate reported in The Wall Street Journal plus (b) 0.25% and are therefore exposed to changes in interest rates through their maturity date of May 2023. If a 10% change in interest rates were to have occurred on December 31, 2019, this change would not have had a material effect on our interest expense as of that date.

#### ***Inflation Risk***

Inflation generally affects us by increasing our clinical trial costs. We do not believe that inflation has had a material effect on our business, financial condition or results of operations during the years ended December 31, 2019, 2018 or 2017.

### **Item 8. Financial Statements and Supplementary Data.**

The financial statements and supplementary data required pursuant to this item are included in Item 15 of this Annual Report and are presented beginning on page F-1.

### **Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.**

None.

**Item 9A. Controls and Procedures.**

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our reports required by the Exchange Act is recorded, processed, summarized and reported within the timelines specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can only provide reasonable assurance of achieving the desired control objectives, and in reaching a reasonable level of assurance, management was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As required by SEC Rule 13a-15(b), we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of the end of the period covered by this Annual Report. Based on the foregoing, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective at the reasonable assurance level.

**Management's Report on Internal Control Over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on criteria established in the framework in *Internal Control — Integrated Framework (2013 Framework)* issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this evaluation, our management concluded that our internal control over financial reporting was effective as of December 31, 2019.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risks that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

The effectiveness of our internal control over financial reporting as of December 31, 2019 has been audited by Ernst & Young LLP, an independent registered public accounting firm, as stated in its report, which is included herein.

**Change in Internal Control Over Financial Reporting**

There have been no changes in our internal control over financial reporting identified in connection with management's evaluation of such internal control that occurred during our most recent quarter ended December 31, 2019 that have materially affected, or are reasonably likely to material affect, our internal control over financial reporting.

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of Kura Oncology, Inc.

### Opinion on Internal Control over Financial Reporting

We have audited Kura Oncology, Inc.'s internal control over financial reporting as of December 31, 2019, based on criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, Kura Oncology, Inc. (the Company) maintained, in all material respects, effective internal control over financial reporting as of December 31, 2019, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the balance sheets of Kura Oncology, Inc. as of December 31, 2019 and 2018, the related statements of operations and comprehensive loss, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2019, and the related notes (collectively referred to as the "financial statements") and our report dated February 25, 2020 expressed an unqualified opinion thereon.

### Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

### Definition and Limitations of Internal Control Over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Ernst & Young LLP

San Diego, California  
February 25, 2020

**Item 9B. Other Information.**

None.

## PART III

### **Item 10. Directors, Executive Officers and Corporate Governance.**

The information required by this item and not set forth below will be set forth in the sections headed “Election of Directors” and “Executive Officers” in our definitive proxy statement for our 2020 Annual Meeting of Stockholders, or Proxy Statement, to be filed with the SEC within 120 days after the end of the fiscal year ended December 31, 2019, and is incorporated herein by reference.

We have adopted a written code of ethics for directors, officers, including our principal executive officer and our principal financial and accounting officer, and employees, known as the Code of Business Conduct and Ethics. The Code of Business Conduct and Ethics is available on our website at [www.kuraoncology.com](http://www.kuraoncology.com) under the Corporate Governance section of our Investors and Media page. We will promptly disclose on our website (i) the nature of any amendment to the Code of Business Conduct and Ethics that applies to our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions and (ii) the nature of any waiver, including an implicit waiver, from a provision of the Code of Business Conduct and Ethics that is granted to one of these specified individuals that is required to be disclosed pursuant to SEC rules and regulations, the name of such person who is granted the waiver and the date of the waiver.

### **Item 11. Executive Compensation.**

The information required by this item will be set forth in the sections headed “Executive Compensation” and “Non-Employee Director Compensation” in our Proxy Statement and is incorporated herein by reference.

### **Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.**

The information required by this item will be set forth in the section headed “Security Ownership of Certain Beneficial Owners and Management” in our Proxy Statement and is incorporated herein by reference.

The information required by Item 201(d) of Regulation S-K will be set forth in the section headed “Executive Compensation” in our Proxy Statement and is incorporated herein by reference.

### **Item 13. Certain Relationships and Related Transactions, and Director Independence.**

The information required by this item will be set forth in the sections headed “Certain Relationships and Related Party Transactions” and “Information Regarding the Board of Directors and Corporate Governance” in our Proxy Statement and is incorporated herein by reference.

### **Item 14. Principal Accounting Fees and Services.**

The information required by this item will be set forth in the section headed “Ratification of Selection of Independent Registered Public Accounting Firm” in our Proxy Statement and is incorporated herein by reference.

PART IV

**Item 15. Exhibits, Financial Statement Schedules.**

1. *Financial Statements.* We have filed the following documents as part of this Annual Report:

	<u>Page</u>
<a href="#">Report of Independent Registered Public Accounting Firm</a>	F-1
<a href="#">Balance Sheets</a>	F-3
<a href="#">Statements of Operations and Comprehensive Loss</a>	F-4
<a href="#">Statements of Stockholders' Equity</a>	F-5
<a href="#">Statements of Cash Flows</a>	F-6
<a href="#">Notes to Financial Statements</a>	F-7

2. *Financial Statement Schedules.*

There are no financial statement schedules provided because the information called for is either not required or is shown either in the financial statements or the notes thereto.

3. *Exhibits*

<u>Exhibit Number</u>	<u>Description</u>	<u>Filed Herewith</u>	<u>Incorporated by Reference herein from Form or Schedule</u>	<u>Filing Date</u>	<u>SEC File/Reg. Number</u>
2.1	<a href="#">Agreement and Plan of Merger, dated March 6, 2015, by and among the Registrant, Kura Operations, Inc. and Kura Oncology, Inc.</a>		8-K (Exhibit 2.1)	3/12/2015	000-53058
2.2	<a href="#">Agreement and Plan of Merger, dated March 6, 2015, by and between the Registrant and Kura Oncology, Inc., relating to the name change of the Registrant.</a>		8-K (Exhibit 2.2)	3/12/2015	000-53058
3.1	<a href="#">Amended and Restated Certificate of Incorporation of the Registrant, as amended.</a>		8-K (Exhibit 3.1)	6/14/2017	001-37620
3.2	<a href="#">Amended and Restated Bylaws of the Registrant.</a>		8-K (Exhibit 3.2)	6/14/2017	001-37620
4.1	<a href="#">Form of Common Stock certificate.</a>		8-K (Exhibit 4.1)	3/12/2015	000-53058
4.2	<a href="#">Warrant to Purchase Stock by Registrant on April 27, 2016 to Oxford Finance LLC.</a>		10-Q (Exhibit 4.3)	8/10/2016	001-37620
4.3	<a href="#">Description of Registrant's Common Stock.</a>	X			
10.1+	<a href="#">Kura Oncology, Inc. Amended and Restated 2014 Equity Incentive Plan and Forms of Stock Option Agreement, Notice of Exercise and Stock Option Grant Notice thereunder.</a>		8-K (Exhibit 10.1)	3/12/2015	000-53058
10.2+	<a href="#">Form of Restricted Stock Purchase Agreement and Restricted Stock Purchase Award Notice under the Kura Oncology, Inc. Amended and Restated 2014 Equity Incentive Plan.</a>		8-K (Exhibit 10.2)	3/12/2015	000-53058

<b>Exhibit Number</b>	<b>Description</b>	<b>Filed Herewith</b>	<b>Incorporated by Reference herein from Form or Schedule</b>	<b>Filing Date</b>	<b>SEC File/Reg. Number</b>
10.3+	<a href="#">Kura Oncology, Inc. 2015 Employee Stock Purchase Plan.</a>		8-K (Exhibit 10.3)	3/12/2015	000-53058
10.4+	<a href="#">Form of Indemnification Agreement by and between the Registrant and each of its directors and officers.</a>		8-K (Exhibit 10.4)	3/12/2015	000-53058
10.5*	<a href="#">License Agreement, dated December 18, 2014, by and between the Registrant and Janssen Pharmaceutica NV.</a>		8-K/A (Exhibit 10.6)	7/2/2015	000-53058
10.6*	<a href="#">Amended and Restated Asset Purchase Agreement, dated February 12, 2015, by and between the Registrant and Araxes Pharma LLC.</a>		8-K (Exhibit 10.7)	3/12/2015	000-53058
10.7	<a href="#">Sublease, dated December 20, 2016, by and between the Registrant and Wellspring Biosciences, Inc.</a>		10-K (Exhibit 10.11)	3/14/2017	001-37620
10.8*	<a href="#">Patent License Agreement, effective as of December 22, 2014, by and between the Registrant and the Regents of the University of Michigan, as amended on March 3, 2015, July 22, 2015, September 29, 2016, February 1, 2017.</a>		10-K (Exhibit 10.12)	3/14/2017	001-37620
10.9*	<a href="#">Fifth Amendment to Patent License Agreement, effective as of May 24, 2017, by and between the Registrant and the Regents of the University of Michigan.</a>		10-Q (Exhibit 10.2)	8/7/2017	001-37620
10.10+	<a href="#">Kura Oncology, Inc. Amended and Restated Non-Employee Director Compensation Policy.</a>		10-K (Exhibit 10.10)	3/12/2018	001-37620
10.11*	<a href="#">Services Agreement, effective as of October 1, 2014, by and between the Registrant and Wellspring Biosciences, Inc.</a>		S-1/A (Exhibit 10.13)	6/2/2015	333-203503
10.12*	<a href="#">Management Services Agreement, effective as of October 1, 2014, by and between the Registrant and Araxes Pharma LLC.</a>		S-1/A (Exhibit 10.14)	6/2/2015	333-203503
10.13	<a href="#">Office Lease Agreement, dated August 1, 2015, by and between the Registrant and 55 Cambridge Parkway, LLC.</a>		S-1 (Exhibit 10.16)	10/20/2015	333-207534
10.14+	<a href="#">Amended and Restated Executive Employment Agreement, effective as of January 29, 2016, by and between the Registrant and Troy E. Wilson, Ph.D., J.D.</a>		10-K (Exhibit 10.15)	3/17/2016	001-37620
10.15+	<a href="#">Amended and Restated Executive Employment Agreement, effective as of January 29, 2016, by and between the Registrant and Antonio Gualberto, M.D., Ph.D.</a>		10-K (Exhibit 10.16)	3/17/2016	001-37620
10.16	<a href="#">First Amendment to Management Services Agreement, effective as of April 1, 2016, by and between the Registrant and Araxes Pharma LLC.</a>		10-Q (Exhibit 10.1)	8/10/2016	001-37620
10.17	<a href="#">Amendment No. 1 to License Agreement, dated June 6, 2016, by and between the Registrant and Janssen Pharmaceutica NV.</a>		10-Q (Exhibit 10.3)	8/10/2016	001-37620

<b>Exhibit Number</b>	<b>Description</b>	<b>Filed Herewith</b>	<b>Incorporated by Reference herein from Form or Schedule</b>	<b>Filing Date</b>	<b>SEC File/Reg. Number</b>
10.18*	<a href="#">Sixth Amendment to Patent License Agreement, effective as of August 24, 2017, by and between the Registrant and the Regents of the University of Michigan.</a>		10-K (Exhibit 10.23)	3/12/2018	001-37620
10.19	<a href="#">Second Amendment to Management Services Agreement, effective as of April 1, 2018, by and between the Registrant and Araxes Pharma LLC.</a>		10-Q (Exhibit 10.1)	5/8/2018	001-37620
10.20+	<a href="#">Executive Employment Agreement, effective as of July 1, 2018, by and between the Registrant and John Farnam.</a>		10-Q (Exhibit 10.5)	8/6/2018	001-37620
10.21+	<a href="#">Executive Employment Agreement, effective as of August 21, 2018, by and between the Registrant and Marc Grasso, M.D.</a>		10-Q (Exhibit 10.2)	11/5/2018	001-37620
10.22	<a href="#">Loan and Security Agreement, dated as of November 1, 2018, by and between the Registrant and Silicon Valley Bank.</a>		10-Q (Exhibit 10.3)	11/5/2018	001-37620
10.23	<a href="#">First Amendment to Sublease, dated March 1, 2019, by and between the Registrant and Wellspring Biosciences, Inc.</a>		10-K (Exhibit 10.24)	3/5/2019	001-37620
10.24	<a href="#">Sales Agreement, dated March 5, 2019, by and among the Registrant, SVB Leerink LLC and Stifel, Nicolaus &amp; Company, Incorporated.</a>		8-K (Exhibit 10.1)	3/5/2019	001-37620
10.25	<a href="#">Assignment and Assumption of Sublease, dated August 2, 2019, by and among the Registrant, Wellspring Biosciences, Inc. and Araxes Pharma LLC.</a>		10-Q (Exhibit 10.1)	11/5/2019	001-37620
10.26+	<a href="#">First Amendment to Executive Employment Agreement, effective as of August 21, 2018, by and between the Registrant and Marc Grasso, M.D.</a>		10-Q (Exhibit 10.2)	11/5/2019	001-37620
10.27+	<a href="#">Executive Employment Agreement, effective as of August 9, 2019, by and between the Registrant and Kathleen Ford.</a>		10-Q (Exhibit 10.3)	11/5/2019	001-37620
10.28	<a href="#">Office Lease Agreement, dated January 8, 2020, by and between the Registrant and BRE CA Office Owners LLC.</a>	X			
10.29+	<a href="#">Separation Agreement, dated February 5, 2020, by and between the Registrant and Antonio Gualberto, M.D., Ph.D.</a>	X			
23.1	<a href="#">Consent of Independent Registered Public Accounting Firm.</a>	X			
24.1	<a href="#">Power of Attorney (see signature page).</a>	X			
31.1	<a href="#">Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>	X			
31.2	<a href="#">Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>	X			

<b>Exhibit Number</b>	<b>Description</b>	<b>Filed Herewith</b>	<b>Incorporated by Reference herein from Form or Schedule</b>	<b>Filing Date</b>	<b>SEC File/Reg. Number</b>
32.1	<a href="#">Certifications of Principal Executive Officer and Principal Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. 1350.</a>	X			
101.INS	Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.	X			
101.SCH	Inline XBRL Taxonomy Extension Schema Document.	X			
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.	X			
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.	X			
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.	X			
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.	X			
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101.INS).	X			

+ Indicates management contract or compensatory plan.

\* Confidential treatment has been granted with respect to certain portions of this exhibit. Omitted portions have been filed separately with the SEC.

**Item 16. Form 10-K Summary.**

None.

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this Annual Report to be signed on its behalf by the undersigned, thereunto duly authorized.

Kura Oncology, Inc.

Date: February 25, 2020

By: /s/ Troy E. Wilson, Ph.D., J.D.

**Troy E. Wilson, Ph.D., J.D.**

**President and Chief Executive Officer**

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Troy E. Wilson, Ph.D., J.D. and Marc Grasso, M.D., and each of them, as his or her true and lawful attorneys-in-fact, each with full power of substitution, for him or her in any and all capacities, to sign any amendments to this Annual Report on Form 10-K and to file the same, with exhibits thereto and other documents in connection therewith, with the SEC, hereby ratifying and confirming all that each of said attorneys-in-fact or their substitute or substitutes may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this Annual Report has been signed below by the following persons on behalf of the registrant in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Troy E. Wilson, Ph.D., J.D.</u> <b>Troy E. Wilson, Ph.D., J.D.</b>	President, Chief Executive Officer and Chairman of the Board of Directors <i>(Principal Executive Officer)</i>	February 25, 2020
<u>/s/ Marc Grasso, M.D.</u> <b>Marc Grasso, M.D.</b>	Chief Financial Officer and Chief Business Officer <i>(Principal Financial and Accounting Officer)</i>	February 25, 2020
<u>/s/ Faheem Hasnain</u> <b>Faheem Hasnain</b>	Director	February 25, 2020
<u>/s/ Robert E. Hoffman</u> <b>Robert E. Hoffman</b>	Director	February 25, 2020
<u>/s/ Thomas Malley</u> <b>Thomas Malley</b>	Director	February 25, 2020
<u>/s/ Diane Parks</u> <b>Diane Parks</b>	Director	February 25, 2020
<u>/s/ Steven H. Stein, M.D.</u> <b>Steven H. Stein, M.D.</b>	Director	February 25, 2020
<u>/s/ Mary Szela</u> <b>Mary Szela</b>	Director	February 25, 2020

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of Kura Oncology, Inc.

### Opinion on the Financial Statements

We have audited the accompanying balance sheets of Kura Oncology, Inc. (the Company) as of December 31, 2019 and 2018, the related statements of operations and comprehensive loss, stockholders' equity and cash flows for each of the three years in the period ended December 31, 2019, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2019 and 2018, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2019, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2019, based on criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) and our report dated February 25, 2020 expressed an unqualified opinion thereon.

### Adoption of ASU No. 2016-02

As discussed in Note 3 to the financial statements, the Company changed its method of accounting for leases in 2019 due to the adoption of Accounting Standards Update (ASU) No. 2016-02, *Leases* (Topic 842), and the related amendments.

### Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

### Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective or complex judgments. The communication of the critical audit matter does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

## Accrued Research and Development Expenses

### Description of the Matter

During 2019, the Company incurred \$47.8 million for research and development expense and as of December 31, 2019, the Company accrued \$7.0 million for research and development expenses. As described in Note 2 of the financial statements, the Company records accruals for estimated costs of research and development activities that include contract services for clinical trials and related clinical manufacturing costs. Clinical trial activities performed by third parties are accrued and expensed based upon estimates of the proportion of work completed over the life of the individual clinical trial and patient enrollment rates in accordance with agreements established with contract research organizations ("CROs") and clinical trial sites. Estimates are determined by reviewing contracts, vendor agreements and purchase orders, and through discussions with internal clinical personnel and external service providers as to the progress or stage of completion of trials or services and the agreed-upon fee to be paid for such services.

Auditing management's accounting for accrued third-party clinical trial research and development expenses is especially challenging as evaluating the progress or stage of completion of the activities under the Company's research and development agreements is dependent upon a high volume of data from third-party service providers and internal clinical personnel, which is tracked in spreadsheets and other end user computing programs.

### How We Addressed the Matter in Our Audit

We obtained an understanding, evaluated the design and tested the operating effectiveness of controls over the accounting for accrued third-party clinical trial research and development expenses. This included management's assessment of the assumptions and data underlying the accrued third-party clinical trial research and development expenses estimate.

To test the completeness of the Company's accrued third-party clinical trial research and development expenses, among other procedures, we obtained supporting evidence of the research and development activities performed for significant clinical trials. We attended internal clinical trial and project status meetings with accounting and clinical project managers to corroborate the status of significant research and development activities. To verify the appropriate measurement of accrued research and development costs, we compared the costs for a sample of transactions against the related invoices and contracts, confirmed amounts incurred to-date with third-party service providers, and performed lookback analyses. We also examined a sample of subsequent payments to evaluate the completeness of the accrued third-party clinical trial research and development expenses.

/s/ Ernst & Young LLP

We have served as the Company's auditor since 2015.

San Diego, California

February 25, 2020

**KURA ONCOLOGY, INC.**  
**BALANCE SHEETS**  
(In thousands, except par value data)

	December 31,	
	2019	2018
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 26,135	\$ 16,119
Short-term investments	210,756	162,866
Accounts receivable, related party	30	224
Prepaid expenses and other current assets	2,682	1,988
Total current assets	239,603	181,197
Property and equipment, net	44	—
Other long-term assets	2,325	1,182
Total assets	\$ 241,972	\$ 182,379
<b>Liabilities and Stockholders' Equity</b>		
Current liabilities:		
Accounts payable and accrued expenses	\$ 15,314	\$ 13,615
Current portion of long-term debt, net	250	—
Total current liabilities	15,564	13,615
Long-term debt, net	7,250	7,500
Other long-term liabilities	377	279
Total liabilities	23,191	21,394
Commitments and contingencies (Note 9)		
Stockholders' equity:		
Preferred stock, \$0.0001 par value; 10,000 shares authorized; no shares issued and outstanding	—	—
Common stock, \$0.0001 par value; 200,000 shares authorized; 45,384 and 38,148 shares issued and outstanding as of December 31, 2019 and 2018, respectively	5	4
Additional paid-in capital	431,322	310,849
Accumulated other comprehensive income (loss)	331	(131)
Accumulated deficit	(212,877)	(149,737)
Total stockholders' equity	218,781	160,985
Total liabilities and stockholders' equity	\$ 241,972	\$ 182,379

*See accompanying notes to financial statements.*

**KURA ONCOLOGY, INC.**  
**STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS**  
(In thousands, except per share data)

	Years Ended December 31,		
	2019	2018	2017
<b>Operating Expenses:</b>			
Research and development (includes related party amounts of \$432, \$1,021 and \$1,312 for the years ended December 31, 2019, 2018 and 2017, respectively)	\$ 47,826	\$ 46,787	\$ 26,426
General and administrative (includes related party amounts of \$325, \$273 and \$247 for the years ended December 31, 2019, 2018 and 2017, respectively)	19,653	16,096	9,651
Total operating expenses	<u>67,479</u>	<u>62,883</u>	<u>36,077</u>
<b>Other Income (Expense):</b>			
Management fee income, related party	245	735	780
Interest income	4,674	3,169	751
Interest expense	(580)	(970)	(888)
Loss from extinguishment of debt	—	(498)	—
Total other income	<u>4,339</u>	<u>2,436</u>	<u>643</u>
<b>Net Loss</b>	<u>\$ (63,140)</u>	<u>\$ (60,447)</u>	<u>\$ (35,434)</u>
Net loss per share, basic and diluted	<u>\$ (1.51)</u>	<u>\$ (1.72)</u>	<u>\$ (1.52)</u>
Weighted average number of shares used in computing net loss per share, basic and diluted	<u>41,946</u>	<u>35,191</u>	<u>23,237</u>
<b>Comprehensive Loss:</b>			
Net loss	\$ (63,140)	\$ (60,447)	\$ (35,434)
Other comprehensive income (loss):			
Unrealized gain (loss) on marketable securities and foreign currency	462	(82)	(31)
Comprehensive loss	<u>\$ (62,678)</u>	<u>\$ (60,529)</u>	<u>\$ (35,465)</u>

*See accompanying notes to financial statements.*

**KURA ONCOLOGY, INC.**  
**STATEMENTS OF STOCKHOLDERS' EQUITY**  
(In thousands)

	Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Stockholders' Equity
	Shares	Par Value				
<b>Balance at December 31, 2016</b>	19,348	\$ 2	\$ 110,748	\$ (18)	\$ (53,856)	\$ 56,876
Issuance of common stock, net of offering costs	8,836	1	53,673	—	—	53,674
Share-based compensation expense	—	—	4,545	—	—	4,545
Restricted stock awards vested	1,193	—	3	—	—	3
Issuance of common stock from exercise of options	47	—	232	—	—	232
Other comprehensive loss	—	—	—	(31)	—	(31)
Net loss	—	—	—	—	(35,434)	(35,434)
<b>Balance at December 31, 2017</b>	29,424	3	169,201	(49)	(89,290)	79,865
Issuance of common stock, net of offering costs	7,737	1	131,900	—	—	131,901
Share-based compensation expense	—	—	8,654	—	—	8,654
Restricted stock awards vested	793	—	2	—	—	2
Issuance of common stock from exercise of options and employee stock purchase plan	194	—	1,092	—	—	1,092
Other comprehensive loss	—	—	—	(82)	—	(82)
Net loss	—	—	—	—	(60,447)	(60,447)
<b>Balance at December 31, 2018</b>	38,148	4	310,849	(131)	(149,737)	160,985
Issuance of common stock, net of offering costs	6,785	1	108,128	—	—	108,129
Share-based compensation expense	—	—	9,409	—	—	9,409
Issuance of common stock from exercise of options and employee stock purchase plan	451	—	2,936	—	—	2,936
Other comprehensive income	—	—	—	462	—	462
Net loss	—	—	—	—	(63,140)	(63,140)
<b>Balance at December 31, 2019</b>	45,384	\$ 5	\$ 431,322	\$ 331	\$ (212,877)	\$ 218,781

*See accompanying notes to financial statements.*

**KURA ONCOLOGY, INC.**  
**STATEMENTS OF CASH FLOWS**  
(In thousands)

	Years Ended December 31,		
	2019	2018	2017
<b>Operating Activities</b>			
Net loss	\$ (63,140)	\$ (60,447)	\$ (35,434)
Adjustments to reconcile net loss to net cash used in operating activities:			
Share-based compensation expense	9,409	8,654	4,545
Non-cash interest expense	—	184	118
Loss on debt extinguishment	—	498	—
Depreciation expense	—	10	30
Amortization of premium and accretion of discounts on marketable securities, net	(1,103)	(1,935)	(260)
Changes in operating assets and liabilities:			
Accounts receivable, related party	210	(8)	79
Prepaid expenses and other current assets	(1,085)	(457)	(196)
Other long-term assets	(117)	(504)	(593)
Accounts payable and accrued expenses	856	5,116	3,052
Other long-term liabilities	210	234	218
Net cash used in operating activities	<u>(54,760)</u>	<u>(48,655)</u>	<u>(28,441)</u>
<b>Investing Activities</b>			
Purchases of marketable securities	(227,571)	(237,443)	(100,635)
Maturities and sales of marketable securities	181,246	158,143	77,217
Net cash used in investing activities	<u>(46,325)</u>	<u>(79,300)</u>	<u>(23,418)</u>
<b>Financing Activities</b>			
Proceeds from issuances of common stock, net	108,165	132,172	53,679
Proceeds from exercise of stock options and purchases under employee stock purchase plan	2,936	1,092	232
Proceeds from issuance of long-term debt, net	—	627	—
Repayment of long-term debt	—	(1,250)	—
Payment of fee related to long-term debt	—	—	(344)
Net cash provided by financing activities	<u>111,101</u>	<u>132,641</u>	<u>53,567</u>
Net increase in cash and cash equivalents	10,016	4,686	1,708
Cash and cash equivalents at beginning of period	16,119	11,433	9,725
Cash and cash equivalents at end of period	<u>\$ 26,135</u>	<u>\$ 16,119</u>	<u>\$ 11,433</u>
<b>Supplemental disclosure of cash flow information:</b>			
Interest paid	\$ 430	\$ 641	\$ 627

*See accompanying notes to financial statements.*

**KURA ONCOLOGY, INC.**  
**Notes to Financial Statements**

**1. Description of Business**

Kura Oncology, Inc., is a clinical-stage biopharmaceutical company committed to realizing the promise of precision medicines for the treatment of cancer. Our pipeline consists of small molecule product candidates that target cancer signaling pathways where there is a strong scientific and clinical rationale to improve outcomes, and we intend to pair them with molecular or cellular diagnostics to identify those patients most likely to respond to treatment. We plan to advance our product candidates through a combination of internal development and strategic partnerships while maintaining significant development and commercial rights.

References in these Notes to Financial Statements to “Kura Oncology, Inc.,” “we,” “our” or “us,” refer to Kura Oncology, Inc.

**2. Summary of Significant Accounting Policies**

***Reclassifications***

Certain prior period balances have been reclassified to conform to the current period presentation.

***Use of Estimates***

Our financial statements are prepared in accordance with accounting principles generally accepted in the United States. The preparation of our financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of expenses during the reporting period.

Reported amounts and note disclosures reflect the overall economic conditions that are most likely to occur and anticipated measures management intends to take. Actual results could differ materially from those estimates. All revisions to accounting estimates are recognized in the period in which the estimates are revised and in any future periods affected.

***Segment Reporting***

Operating segments are identified as components of an enterprise about which separate discrete financial information is available for evaluation by the chief operating decision-maker in making decisions regarding resource allocation and assessing performance. We operate in a single industry segment which is the discovery and development of precision medicines for the treatment of cancer. Our chief operating decision-maker reviews the operating results on an aggregate basis and manages the operations as a single operating segment in the United States.

***Cash and Cash Equivalents***

Cash and cash equivalents consist of checking, money market and highly liquid investments that are readily convertible to cash and that have an original maturity of three months or less. The carrying amounts approximate fair value due to the short maturities of these instruments.

***Short-Term Investments***

Short-term investments are marketable securities with maturities greater than three months from date of purchase that are specifically identified to fund current operations. These investments are classified as current assets, even though the stated maturity date may be one year or more beyond the current balance sheet date, which reflects management’s intention to use the proceeds from sales of these securities to fund our operations, as necessary. The cost of short-term investments is adjusted for amortization of premiums or accretion of discounts to maturity, and such amortization or accretion is included in interest income. Dividend and interest income is recognized as interest income on the statements of operations and comprehensive loss when earned. Short-term investments are classified as available-for-sale securities and carried at fair value with unrealized gains and losses recorded in other comprehensive income (loss) and included as a separate component of stockholders' equity. Realized gains and losses from the sale of available-for-sale securities and declines in value judged to be

other than temporary on short-term investments, if any, are determined on a specific identification basis and are reclassified out of comprehensive loss and included in interest income on the statements of operations and comprehensive loss.

### ***Fair Value Measurements***

Fair value is defined as the exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. As a basis for considering such assumptions, the guidance establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value as follows:

- Level 1 - Quoted prices (unadjusted) in active markets for identical assets or liabilities;
- Level 2 - Inputs other than quoted prices included within Level 1 that are either directly or indirectly observable;
- Level 3 - Unobservable inputs in which little or no market activity exists, therefore requiring an entity to develop its own assumptions about the assumptions that market participants would use in pricing.

### ***Concentration of Credit Risk***

Financial instruments that potentially subject us to significant concentrations of credit risk consist primarily of cash, cash equivalents and short-term investments. We maintain deposits in federally insured financial institutions in excess of federally insured limits. We have established guidelines to limit our exposure to credit risk by placing investments with high credit quality financial institutions, diversifying our investment portfolio and placing investments with maturities that maintain safety and liquidity. We periodically review and modify these guidelines to maximize trends in yields and interest rates without compromising safety and liquidity.

### ***Property and Equipment***

Property and equipment are stated at cost and depreciated using the straight-line method over the estimated useful lives of the assets. Computer software and equipment are depreciated over their estimated useful lives of three years. Laboratory equipment is depreciated over its estimated useful life of five years.

### ***Impairment of Long-Lived Assets***

We review our long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying value of an asset may not be recoverable. If such circumstances are determined to exist, an estimate of undiscounted future cash flows produced by the long-lived asset, including its eventual residual value, is compared to the carrying value to determine whether impairment exists. In the event that such cash flows are not expected to be sufficient to recover the carrying amount of the assets, the assets are written-down to their estimated fair values. For the years ended December 31, 2019, 2018 and 2017, there were no impairments of the value of long-lived assets.

### ***Leases***

We determine if an arrangement is a lease or contains lease components at inception. Short-term leases with an initial term of 12 months or less are not recorded on the balance sheet. For operating leases with an initial term greater than 12 months, we recognize operating lease right-of-use, or ROU, assets and operating lease liabilities based on the present value of lease payments over the lease term at commencement date. Operating lease ROU assets are comprised of the lease liability plus any lease payments made and excludes lease incentives. Lease terms may include options to extend or terminate when we are reasonably certain that the option will be exercised. For our operating leases, we generally cannot determine the interest rate implicit in the lease, in which case we use our incremental borrowing rate as the discount rate for the lease. We estimate our incremental borrowing rate for our operating leases based on what we would normally pay to borrow on a collateralized basis over a similar term for an amount equal to the lease payments. Operating lease expense is recognized on a straight-line basis over the lease term.

If a lease is modified, the modified contract is evaluated to determine whether it is or contains a lease. If a lease continues to exist, the lease modification is determined to be a separate contract when the modification grants the lessee an additional right of use that is not included in the original lease and the lease payments increase commensurate with the standalone price for the additional ROU. A lease modification that results in a separate contract will be accounted for in the same manner as a new lease. For a modification that is not a separate contract, we reassess the lease classification using the

modified terms and conditions and the facts and circumstances as of the effective date of the modification and recognize the amount of the remeasurement of the lease liability for the modified lease as an adjustment to the corresponding ROU asset.

### ***Research and Development Expenses***

Research and development expenses consist of costs associated with our research and development activities including salaries, benefits, share-based compensation and other personnel costs, clinical trial costs, manufacturing costs for non-commercial products, fees paid to external service providers and consultants, facilities costs and supplies, equipment and materials used in clinical and preclinical studies and research and development. All such costs are charged to research and development expense as incurred when these expenditures have no alternative future uses. We are obligated to make upfront payments upon execution of certain research and development agreements. Advance payments, including nonrefundable amounts, for goods or services that will be used or rendered for future research and development activities are deferred. Such amounts are recognized as expense as the related goods are delivered or the related services are performed or such time when we do not expect the goods to be delivered or services to be performed. Payments that we make in connection with in-licensed technology for a particular research and development project that have no alternative future uses, in other research and development projects or otherwise, and therefore no separate economic values are expensed as research and development costs at the time such costs are incurred. As of December 31, 2019, we have no in-licensed technologies that have alternative future uses in research and development projects or otherwise.

### ***Clinical Trial Costs and Accruals***

A significant portion of our clinical trial costs relate to contracts with contract research organizations, or CROs. The financial terms of our CRO contracts may result in payment flows that do not match the periods over which materials or services are provided to us under such contracts. Our objective is to reflect the appropriate clinical trial expenses in our financial statements by matching those expenses with the period in which services and efforts are expended. As part of the process of preparing our financial statements, we rely on cost information provided by our CROs, concerning monthly expenses as well as reimbursement for pass through costs. We are also required to estimate certain of our expenses resulting from our obligations under our CRO contracts. Accordingly, our clinical trial accrual is dependent upon the timely and accurate reporting of CROs and other third-party vendors. If the contracted amounts are modified, for instance, as a result of changes in the clinical trial protocol or scope of work to be performed, we modify our accruals accordingly on a prospective basis. Revisions in the scope of a contract are charged to expense in the period in which the facts that give rise to the revision become reasonably certain. Historically, we have had no material changes in clinical trial expense that had a material impact on our results of operations or financial position.

### ***Patent Costs***

We expense all costs as incurred in connection with patent applications, including direct application fees, and the legal and consulting expenses related to making such applications, and such costs are included in general and administrative expenses on the statements of operations and comprehensive loss.

### ***Share-Based Payments***

Our share-based awards are measured at fair value on the date of grant based upon the estimated fair value of common stock. The fair value of awards expected to vest are recognized and amortized on a straight-line basis over the requisite service period of the award less actual forfeitures. The fair value of each stock option is estimated on the date of grant using the Black-Scholes option pricing model, or Black-Scholes model, that requires the use of subjective assumptions including volatility, expected term, risk-free rate and the fair value of the underlying common stock.

Subsequent to the adoption of Accounting Standards Update, or ASU, 2018-07 on January 1, 2019, we measured awards granted to non-employees on the adoption date of the standard and recognized the expense over the remaining vesting period of the award. Prior to the adoption of ASU 2018-07, awards granted to non-employees were subject to periodic revaluation over their vesting terms. The fair value of non-employee awards was remeasured at each reporting period as the underlying awards vest unless the instruments were fully vested, immediately exercisable and nonforfeitable on the date of grant. We recorded the expense for stock option grants to non-employees based on the estimated fair value of the stock options using the Black-Scholes model. Estimated fair value of the restricted stock awards granted to non-employees was recorded on the earlier of the performance commitment date or the date the services required were completed and were remeasured at fair value during the service period. As non-employee restricted stock awards vest, they were remeasured at

fair value and expensed based on the intrinsic value method which was measured as the difference between the exercise price paid for the restricted stock award and the fair value of the shares as the right of the repurchase lapses each vesting period.

### **Income Taxes**

Income taxes are accounted for using the asset and liability method. Under the asset and liability method, deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates applicable to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. A valuation allowance against deferred tax assets is recorded if, based upon the weight of all available evidence, it is more likely than not that some or all of the deferred tax assets will not be realized. For uncertain tax positions that meet “a more likely than not” threshold, we recognize the benefit of uncertain tax positions in the financial statements.

### **Comprehensive Loss**

Comprehensive loss is defined as the change in equity during the period from transactions and other events and non-owner sources. For the periods presented, accumulated other comprehensive income (loss) consists of unrealized gains and losses on marketable securities and foreign currency.

### **Net Loss per Share**

Net loss per common share is calculated by dividing the net loss by the weighted-average number of common shares outstanding for the period, without consideration for common stock equivalents. Diluted net loss per share is calculated by dividing the net loss by the weighted-average number of common shares and common stock equivalents outstanding for the period determined using the treasury-stock method. For purposes of this calculation, outstanding stock options, unvested restricted stock awards, an outstanding warrant and employee stock purchase plan rights are excluded from the calculation of diluted net loss per common share for the periods presented as their effect would be anti-dilutive. For all periods presented, there is no difference in the number of shares used to calculate basic and diluted shares outstanding due to the anti-dilutive effect of the securities.

The following table summarizes the number of potentially dilutive securities that were excluded from our calculation of diluted net loss per share, in thousands:

	Years Ended December 31,		
	2019	2018	2017
Stock options	4,080	3,186	2,233
Warrant	34	34	34
Employee stock purchase plan rights	6	5	—
Unvested restricted stock awards	—	—	793
Total	<u>4,120</u>	<u>3,225</u>	<u>3,060</u>

### 3. Recent Accounting Pronouncements

In February 2016, the Financial Accounting Standards Board, or FASB, issued ASU 2016-02, Leases (Topic 842), which amended prior accounting standards for leases. ASU 2016-02 requires lessees to recognize ROU assets and lease liabilities on the balance sheet and requires expanded disclosures about leasing arrangements. Subsequently, the FASB issued ASU 2018-11, Leases (Topic 842): Targeted Improvements. ASU 2018-11 provides entities another option for transition, allowing entities to not apply the new standard in the comparative periods they present in the financial statements in the year of adoption. We adopted the new lease standard on January 1, 2019, using the alternative modified transition method provided by ASU 2018-11 and did not retrospectively apply to prior periods. We elected the “package of practical expedients” permitted under the transition which allows us not to reassess our historical assessment of whether existing contracts are or contain a lease and the classification of existing lease arrangements, and to calculate the present value of the fixed payments without performing an allocation of lease and non-lease components. As a result of the adoption of the new standard, we recognized operating lease ROU assets and operating lease liabilities of \$0.6 million on our balance sheet as of January 1, 2019. ROU assets are recorded in other long-term assets on our balance sheets. Current lease liabilities are recorded in accounts payable and accrued expenses on our balance sheets. The adoption of the new lease standard did not have an impact on our accumulated deficit, and did not have a material impact on our results of operations and cash flows. See the “Operating Leases” section of Note 9, Commitments and Contingencies, for further details.

In June 2018, the FASB issued ASU 2018-07, Improvements to Nonemployee Share-Based Payment Accounting (Topic 718), which expands the scope of Topic 718 to include share-based payment transactions for acquiring goods and services from nonemployees. The new guidance is intended to simplify aspects of share-based compensation issued to nonemployees by aligning the accounting for share-based payment awards issued to employees and nonemployees as it relates to measurement date and impact of performance conditions. This standard was effective for fiscal years beginning after December 15, 2018, and interim periods within those annual periods. We adopted ASU 2018-07 on January 1, 2019. The adoption of ASU 2018-07 did not have a material impact on our financial statements.

In December 2019, the FASB issued ASU 2019-12, Simplifying the Accounting for Income Taxes. The new guidance is intended to simplify aspects of the accounting for income taxes, including the elimination of certain exceptions to the guidance in ASC 740 related to the approach for intraperiod tax allocation, among other changes. This standard is effective for fiscal years beginning after December 15, 2020 and interim periods within those annual years. Early adoption is permitted. We elected to early adopt ASU 2019-12 effective January 1, 2019. The adoption of ASU 2019-12 did not have a material impact on our financial statements.

In June 2016, the FASB issued ASU 2016-13, Financial Instruments-Credit Losses: Measurement of Credit Losses on Financial Instruments, which changes the impairment model for most financial assets and certain other instruments. For trade receivables and other instruments, entities will be required to use a new forward-looking expected loss model that generally will result in the earlier recognition of allowances for losses. For available-for-sale debt securities with unrealized losses that are attributable to credit, the losses will be recognized in earnings as allowances. This guidance is effective for annual reporting periods beginning after December 15, 2019, including interim periods within those years, with early adoption permitted only as of annual reporting periods beginning after December 15, 2018. We adopted ASU 2016-13 on January 1, 2020 and do not expect the adoption of the new standard to have a material impact on our financial statements.

#### 4. Investments

We invest in available-for-sale securities consisting of money market funds, corporate debt securities, U.S. Treasury securities and commercial paper. Available-for-sale securities are classified as part of either cash and cash equivalents or short-term investments on the balance sheets.

The following tables summarize, by major security type, our investments that are measured at fair value on a recurring basis, in thousands:

	Maturities (years)	December 31, 2019			Fair Value
		Amortized Cost	Unrealized Gains	Unrealized Losses	
Cash equivalents:					
Money market funds	1 or less	\$ 18,445	\$ —	\$ —	\$ 18,445
Short-term investments:					
Corporate debt securities	2 or less	113,466	182	—	113,648
U.S. Treasury securities	2 or less	76,108	149	—	76,257
Commercial paper	1 or less	20,851	—	—	20,851
Total short-term investments		210,425	331	—	210,756
<b>Total</b>		<b>\$ 228,870</b>	<b>\$ 331</b>	<b>\$ —</b>	<b>\$ 229,201</b>

	Maturities (years)	December 31, 2018			Fair Value
		Amortized Cost	Unrealized Gains	Unrealized Losses	
Cash equivalents:					
Money market funds	1 or less	\$ 8,508	\$ —	\$ —	\$ 8,508
Short-term investments:					
Corporate debt securities	1 or less	56,779	6	(77)	56,708
U.S. Treasury securities	1 or less	39,780	—	(57)	39,723
Commercial paper	1 or less	66,435	—	—	66,435
Total short-term investments		162,994	6	(134)	162,866
<b>Total</b>		<b>\$ 171,502</b>	<b>\$ 6</b>	<b>\$ (134)</b>	<b>\$ 171,374</b>

The available-for-sale investments are classified as current assets, even though the stated maturity date may be one year or more beyond the current balance sheet date, which reflects management's intention to use the proceeds from sales of these securities to fund our operations, as necessary. As of December 31, 2019, \$196.1 million of our short-term investments had maturities less than one year and \$14.7 million of our short-term investments had maturities between one to two years. As of December 31, 2018, all of our short-term investments had maturities less than one year. Realized gains and losses were de minimus for the year ended December 31, 2019. There were no realized gains or losses for the years ended December 31, 2018 and 2017. As of December 31, 2019, there were no marketable securities in gross unrealized loss positions, compared to \$93.5 million of our marketable securities which were in gross unrealized loss positions as of December 31, 2018, of which \$5.0 million of U.S. Treasury securities had been in such position for greater than 12 months and subsequently matured in January 2019.

At each reporting date, we perform an evaluation of our marketable securities to determine if any unrealized losses are other-than-temporary. Factors considered in determining whether a loss is other-than-temporary include (i) the financial strength of the issuing institution, (ii) the length of time and extent for which fair value has been less than the cost basis and (iii) our intent and ability to hold our investments in unrealized loss positions until their amortized cost basis has been recovered. Based on our evaluation, we determined that our unrealized losses were not other-than-temporary as of December 31, 2018.

## 5. Fair Value Measurements

As of December 31, 2019 and 2018, we had cash equivalents and short-term investments measured at fair value on a recurring basis. The carrying amounts of our financial instruments, which include cash equivalents, prepaid expenses, accounts payable and accrued expenses approximate their fair values as of December 31, 2019 and 2018, primarily due to their short-term nature. Fair value estimates of these instruments are made at a specific point in time, based on relevant market information. These estimates may be subjective in nature and involve uncertainties and matters of significant judgment and therefore cannot be determined with precision.

Available-for-sale marketable securities consist of U.S. Treasury securities, which were measured at fair value using Level 1 inputs, and corporate debt securities and commercial paper, which were measured at fair value using Level 2 inputs. We determine the fair value of Level 2 related securities with the aid of valuations provided by third parties using proprietary valuation models and analytical tools. These valuation models and analytical tools use market pricing or prices for similar instruments that are both objective and publicly available, including matrix pricing or reported trades, benchmark yields, broker/dealer quotes, issuer spreads, two-sided markets, benchmark securities, bids and/or offers. We validate the fair values of Level 2 financial instruments by comparing these fair values to a third-party pricing source. No transfers between levels have occurred during the periods presented.

The following tables summarize, by major security type, our cash equivalents and short-term investments that are measured at fair value on a recurring basis and are categorized using the fair value hierarchy, in thousands:

	December 31, 2019		
	Balance	Level 1	Level 2
Cash equivalents:			
Money market funds	\$ 18,445	\$ 18,445	\$ —
Short-term investments:			
Corporate debt securities	113,648	—	113,648
U.S. Treasury securities	76,257	76,257	—
Commercial paper	20,851	—	20,851
Total short-term investments	210,756	76,257	134,499
<b>Total</b>	<b>\$ 229,201</b>	<b>\$ 94,702</b>	<b>\$ 134,499</b>
	December 31, 2018		
	Balance	Level 1	Level 2
Cash equivalents:			
Money market funds	\$ 8,508	\$ 8,508	\$ —
Short-term investments:			
Corporate debt securities	56,708	—	56,708
U.S. Treasury securities	39,723	39,723	—
Commercial paper	66,435	—	66,435
Total short-term investments	162,866	39,723	123,143
<b>Total</b>	<b>\$ 171,374</b>	<b>\$ 48,231</b>	<b>\$ 123,143</b>

We believe that our term loan facility bears interest at a rate that approximates prevailing market rates for instruments with similar characteristics and, accordingly, the carrying value of the term loan facility approximates fair value. The fair value of our term loan facility is determined using Level 2 inputs in the fair value hierarchy. See Note 7, Long-Term Debt, for further details of our term loan facility.

## 6. Balance Sheet Detail

Property and equipment consisted of the following, in thousands:

	December 31,	
	2019	2018
Computer software and equipment and laboratory equipment	\$ 136	\$ 92
Less: accumulated depreciation	(92)	(92)
Property and equipment, net	\$ 44	\$ —

There was no depreciation expense for the year ended December 31, 2019. Depreciation expense was \$10,000 and \$30,000 for the years ended December 31, 2018 and 2017, respectively.

Accounts payable and accrued liabilities consisted of the following, in thousands:

	December 31,	
	2019	2018
Accounts payable	\$ 3,526	\$ 3,935
Accrued research and development expenses	6,970	5,729
Accrued compensation and benefits	3,694	3,437
Other accrued expenses	1,124	514
Total accounts payable and accrued expenses	\$ 15,314	\$ 13,615

## 7. Long-Term Debt

In April 2016, we entered into a loan and security agreement with Oxford Finance LLC, or Oxford, and Silicon Valley Bank, or SVB, which was amended in May 2017 and October 2017, pursuant to which we borrowed \$7.5 million, or SVB-Oxford Term Loan. As discussed below, we extinguished the SVB-Oxford Term Loan in November 2018. In connection with the SVB-Oxford Term Loan, we issued warrants to purchase shares of our common stock. As of December 31, 2019, the warrant issued to Oxford to purchase up to 33,988 shares of our common stock at an exercise price of \$3.31 per share remains outstanding.

On November 1, 2018, we entered into a loan and security agreement, or the SVB Loan Agreement, with SVB, or the Lender, providing for up to \$20.0 million in a series of term loans. Upon entering into the SVB Loan Agreement, we borrowed \$7.5 million, or Term A Loan. We used approximately \$6.9 million of the proceeds from the Term A Loan to repay all amounts owed under the SVB-Oxford Loan Agreement, which included a prepayment charge of \$0.1 million. The SVB Loan Agreement has substantially different terms than the SVB-Oxford Loan Agreement. In accordance with ASC 405, *Extinguishment of Liabilities* and ASC 470-50, *Debt Modifications and Extinguishments*, we accounted for the transaction as a debt extinguishment. Accordingly, we recorded a loss of approximately \$0.5 million for the year ended December 31, 2018.

Under the terms of the SVB Loan Agreement, we may, at our sole discretion, borrow from the Lender up to an additional \$12.5 million at any time until May 1, 2020, or Term B Loan, and together with Term A Loan, the Term Loans. In addition, each Term B Loan must be in an amount equal to the lesser of \$5.0 million or the amount that is remaining under the Term B Loan.

All of the Term Loans will be due on the scheduled maturity date of May 1, 2023, or Maturity Date. Repayment of the Term Loans will be interest only through November 30, 2020, followed by 30 equal monthly payments of principal plus accrued interest commencing on December 1, 2020. The per annum interest rate for any outstanding Term Loans is the greater of (i) 5.50% and (ii) the sum of (a) the prime rate reported in The Wall Street Journal plus (b) 0.25%. The interest rate as of December 31, 2019 was 5.50%. In addition, a final payment of 7.75% of the amounts of the Term Loans drawn will be due on the earlier of the Maturity Date, acceleration of any Term Loans, or prepayment of the Term Loans. The final payment is being accrued through interest expense using the effective interest method. If we elect to prepay the Term Loans, a prepayment fee equal to 1% or 2% of the then outstanding principal balance will also be due, depending upon when the prepayment occurs.

We are subject to customary affirmative and restrictive covenants under the term loan facility. Our obligations under the SVB Loan Agreement are secured by a first priority security interest in substantially all of our current and future assets,

other than our intellectual property. We have also agreed not to encumber our intellectual property assets, except as permitted by the SVB Loan Agreement.

The SVB Loan Agreement also contains customary indemnification obligations and customary events of default, including, among other things, our failure to fulfill certain obligations under the SVB Loan Agreement and the occurrence of a material adverse change in our business, operations, or condition (financial or otherwise), a material impairment of the prospect of repayment of any portion of the loan, or a material impairment in the perfection or priority of Lender's lien in the collateral or in the value of such collateral. In the event of default by us under the SVB Loan Agreement, the Lender would be entitled to exercise their remedies thereunder, including the right to accelerate the debt, upon which we may be required to repay all amounts then outstanding under the SVB Loan Agreement. The conditional exercisable call option related to the event of default is considered to be an embedded derivative which is required to be bifurcated and accounted for as a separate financial instrument. In the periods presented, the value of the embedded derivative is not material, but could become material in future periods if an event of default became more probable than is currently estimated. As of December 31, 2019 and 2018, we were in compliance with all financial covenants under the SVB Loan Agreement and there had been no material adverse change.

The following table summarizes future minimum payments under the term loan facility as of December 31, 2019, in thousands:

Year Ending December 31,	
2020	\$ 669
2021	3,328
2022	3,160
2023	1,849
Total future minimum payments	9,006
Less: interest payments	(1,506)
Principal amount of long-term debt	7,500
Current portion of long-term debt	(250)
Long-term debt, net	\$ 7,250

## 8. License Agreements

### *Janssen License Agreement*

In December 2014, we entered into a license agreement with Janssen Pharmaceutica NV, or Janssen, which was amended in June 2016, under which we received certain intellectual property rights related to tipifarnib in all indications other than virology for a non-refundable \$1.0 million upfront license fee and payments upon achievement of certain development and sales-based milestones. Tipifarnib is a clinical stage compound and all ongoing development, regulatory and commercial work will be completed fully and at our sole expense. Under the license agreement, Janssen had a first right to negotiate for an exclusive license back from us to develop and commercialize tipifarnib on terms to be negotiated in good faith. Janssen could exercise this right of first negotiation during a 60-day period following delivery of clinical data as specified in the agreement. In June 2018, Janssen declined to exercise this first right to negotiate.

The agreement will terminate upon the last-to-expire patent rights or last-to-expire royalty term, or may be terminated by us with 180 days written notice of termination. Either party may terminate the agreement in the event of material breach of the agreement that is not cured within 45 days. Janssen may also terminate the agreement due to our lack of diligence that is not cured within a three-month period.

### *The University of Michigan License Agreement*

In December 2014, we entered into a license agreement with the Regents of the University of Michigan, or the University of Michigan, which was amended in March 2015, July 2015, September 2016, February 2017, May 2017 and August 2017, under which we received certain license rights for a non-refundable upfront license, annual maintenance fees and payments upon achievement of certain development and sales-based milestones. The licensed asset consists of several compounds, including our development candidate KO-539. All future development, regulatory and commercial work on the asset will be completed fully and at our sole expense. The University of Michigan retains the right to use the asset for non-commercial research, internal and/or educational purposes, with the right to grant the same limited rights to other non-profit research institutions.

The agreement will terminate upon the last-to-expire patent rights, or may be terminated by us at any time with 90 days written notice of termination or terminated by the University of Michigan upon a bankruptcy by us, payment failure by us that is not cured within 30 days or a material breach of the agreement by us that is not cured within 60 days.

#### *Future Milestone Payments under License Agreements*

Collectively, all of our license agreements provide for specified development, regulatory and sales-based milestone payments up to a total of \$80.0 million payable upon occurrence of each stated event, of which \$0.5 million relates to the initiation of certain development activities, \$28.7 million relates to the achievement of specified regulatory approvals for the first indication and up to \$50.8 million for the achievement of specified levels of product sales. Additional payments will be due for each subsequent indication if specified regulatory approvals are achieved. As of December 31, 2019, we have paid a milestone payment of \$25,000 under the above-mentioned license agreements. Furthermore, if all the programs are successfully commercialized, we will be required to pay tiered royalties on annual net product sales ranging from the low single digits to the low teens, depending on the volume of sales and the respective agreement.

#### *Araxes Asset Purchase Agreement*

In December 2014, we entered into an asset purchase agreement with Araxes Pharma LLC, or Araxes, which was amended and restated in February 2015, under which we purchased certain early stage patent rights related to compounds in the field of oncology for a purchase price of \$0.5 million payable under a convertible promissory note. All ongoing development, regulatory and commercial work will be completed fully and at our sole expense. The agreement allows for contingent milestone payments of \$9.7 million throughout development and commercialization of the asset, of which \$1.2 million relates to the initiation of certain development activities, and \$8.5 million relates to the submission of certain regulatory filings and receipt of certain regulatory approvals. To date, we have paid to Araxes \$0.3 million in milestone payments. Additional payments will be due for each subsequent indication if specified regulatory approvals are achieved. Furthermore, if the program is successfully commercialized, we will be required to pay tiered royalties on annual net product sales ranging in the low single digits, depending on the volume of sales. All milestone payments under the agreement will be recognized upon completion of the required events because the triggering events will not be considered to be probable until they are achieved. For the year ended December 31, 2017, we paid to Araxes a milestone payment of \$0.2 million upon the dosing of the first patient in the first KO-947 Phase 1 clinical trial in the second quarter of 2017. There were no milestone payments to Araxes in 2019 or 2018.

## **9. Commitments and Contingencies**

### *Operating Leases*

In August 2014, we entered into a sublease agreement, or the Sublease, with Wellspring Biosciences, Inc., or Wellspring, a wholly owned subsidiary of Araxes, for office space located on North Torrey Pines Road in La Jolla, California. The Sublease was amended effective September 1, 2014 to provide for a monthly rent of \$4,820 per month. The Sublease included rent escalation of 3.0% per year. In addition to the base monthly rent, we were obligated to pay for operating expenses, taxes, insurance and utilities applicable to the subleased property. Pursuant to the terms of the Sublease, as amended again in June 2016, the Sublease would have expired on October 31, 2019. In December 2016, we entered into a third amendment to Sublease pursuant to which the Sublease expired in June 2017.

In December 2016, we entered into a sublease agreement, or the New Sublease, with Wellspring, which was assigned from Wellspring to Araxes in August 2019, for 5,216 square feet of office space located on Science Park Road in San Diego, California for a monthly rent of approximately \$16,000 per month and security deposit of approximately \$16,000. The New Sublease includes rent escalation of 3.0% per year. In addition to the base monthly rent, we will be obligated to pay for operating costs, amenities fees and all other costs applicable to the subleased property. The terms of the New Sublease commenced in June 2017 and would have expired on October 31, 2019. In March 2019, the New Sublease was amended to extend until April 30, 2020 with the monthly rent increased to approximately \$24,000 per month effective November 1, 2019. See Note 12, Related Party Transactions, for further details of the Sublease and New Sublease.

In August 2015, we entered into a lease agreement for approximately 3,766 square feet of office space located in Cambridge, Massachusetts. We paid a security deposit of approximately \$44,000. The lease is subject to a 60 month term expiring on August 1, 2020, with initial monthly rent of approximately \$21,000 per month, and subject to a 1.4% annual rent

increase. Total base rent payable over the lease period is \$1.3 million. In addition to base monthly rent, we are obligated to pay for taxes, insurance and utilities applicable to the leased property.

We determined the New Sublease in San Diego, California and the lease in Cambridge, Massachusetts that existed before the January 1, 2019 adoption of ASU 2016-02 are operating leases under ASC 842. We determined the March 2019 amendment of the New Sublease did not modify the ROU asset and, therefore, was not a separate contract. Accordingly, we reassessed the lease classification and concluded the operating lease classification remained appropriate. The modified lease terms were included in determining the present value of lease payments for the sublease at the modification date. As such, we recognized an adjustment of approximately \$0.1 million as an increase to the sublease liability and ROU asset. We do not have any new operating leases with terms greater than 12 months nor any finance leases as of December 31, 2019.

Operating lease expense was as follows, in thousands:

	<b>Year Ended</b>
	<b>December 31, 2019</b>
Operating lease cost	\$ 271
Operating lease cost, related party	232
Total operating lease costs	<u>\$ 503</u>

Supplemental cash flow information related to our operating leases was as follows, in thousands:

	<b>Year Ended</b>
	<b>December 31, 2019</b>
Cash paid for amounts included in the measurement of lease liabilities:	
Operating cash flows from operating leases	\$ 270
Operating cash flows from operating leases, related party	215
Total cash paid for amounts included in the measurement of lease liabilities	<u>\$ 485</u>
ROU assets obtained in exchange for operating lease liabilities	\$ 251
ROU assets obtained in exchange for operating lease liabilities, related party	221
Total ROU assets obtained in exchange for operating lease liabilities	<u>\$ 472</u>

Supplemental balance sheet information related to our operating leases was as follows, in thousands (except lease term and discount rate):

	<b>December 31, 2019</b>
Operating lease ROU assets	\$ 155
Operating lease ROU assets, related party	79
Total operating lease ROU assets	<u>\$ 234</u>
Current lease liabilities	\$ 156
Current lease liabilities, related party	96
Total operating lease liabilities	<u>\$ 252</u>
Weighted-average remaining lease term (in years)	0.5
Weighted-average discount rate	6.5%

As of December 31, 2019, we had remaining lease liabilities of approximately \$0.3 million which will mature in 2020. As of December 31, 2018, prior to the adoption of ASU 2016-02, future minimum payments required under the facility leases were \$0.5 million and \$0.3 million for the years ending December 31, 2019 and 2020, respectively.

Rent expense for the years ended December 31, 2019, 2018 and 2017 was approximately \$0.6 million, \$0.5 million and \$0.4 million, respectively.

In January 2020, we entered into a lease agreement with BRE CA Office Owner LLC for office space in San Diego, California which is expected to commence in May 2020, or the San Diego Lease. See Note 16, Subsequent Event, for further details of the San Diego Lease.

### *Litigation*

From time to time, we may be involved in disputes, including litigation, relating to claims arising out of operations in the normal course of our business. Any of these claims could subject us to costly legal expenses and, while we generally believe that we have adequate insurance to cover many different types of liabilities, our insurance carriers may deny coverage or our policy limits may be inadequate to fully satisfy any damage awards or settlements. If this were to happen, the payment of any such awards could have a material adverse effect on our results of operations and financial position. Additionally, any such claims, whether or not successful, could damage our reputation and business. We currently are not a party to any legal proceedings, the adverse outcome of which, in management's opinion, individually or in the aggregate, would have a material adverse effect on our results of operations or financial position.

## **10. Stockholders' Equity**

In June 2019, we completed a public offering in which we sold an aggregate of 6,785,000 shares of common stock at a price of \$17.00 per share. Net proceeds from the public offering, after deducting underwriting discounts, commissions and offering expenses, were approximately \$108.1 million.

In March 2019, we entered into an at-the-market issuance sales agreement with SVB Leerink LLC and Stifel, Nicolaus & Company, Incorporated, or the 2019 ATM facility, under which we may offer and sell, from time to time, at our sole discretion, shares of our common stock having an aggregate offering price of up to \$75.0 million. We have not yet sold any shares of our common stock under the 2019 ATM facility.

In July 2018, we completed a public offering in which we sold an aggregate of 4,600,000 shares of common stock at a price of \$16.75 per share. Net proceeds from the public offering, after deducting underwriting discounts, commissions and offering expenses, were approximately \$74.5 million.

In January 2018, we sold an aggregate of 3,136,722 shares of our common stock at a weighted-average price per share of \$18.85, for net proceeds of approximately \$57.4 million, after deducting commissions and offering expenses, under an at-the-market issuance sales agreement, with Cowen and Company, LLC, which was amended in November 2017 and March 2018, or 2017 ATM facility. In July 2018, we terminated the 2017 ATM facility.

In August 2017, we completed a public offering in which we sold an aggregate of 8,805,000 shares of common stock at a price of \$6.50 per share. Net proceeds from the public offering, after deducting underwriting discounts, commissions and offering expenses, were approximately \$53.5 million.

## **11. Share-Based Compensation**

### *Equity Incentive Plan*

In March 2015, our board of directors adopted our Amended and Restated 2014 Equity Incentive Plan, or 2014 Plan, which provides for the grant of incentive stock options, non-statutory stock options, restricted stock awards, restricted stock unit awards, performance-based stock awards and other forms of equity compensation to our employees and other service providers. The number of shares of our common stock available for future grant under the 2014 Plan will automatically increase on January 1 of each year through January 1, 2025 by 4% of the total number of shares of our common stock outstanding on December 31 of the preceding calendar year, subject to the ability of our board of directors to take action to reduce the size of the increase in any given year. On January 1, 2020, an automatic increase pursuant to the 2014 Plan occurred, resulting in 1,815,361 additional shares available for future grant under the 2014 Plan. We issue shares of common stock upon the exercise of options with the source of those shares of common stock being newly issued shares.

As of December 31, 2019, a total of up to 10,419,120 shares of common stock have been reserved for issuance under the 2014 Plan. As of December 31, 2019, there were 800,835 shares of common stock reserved for future equity awards issuances under the 2014 Plan.

## Stock Options

The exercise price of all stock options granted was equal to no less than the estimated fair market value of such stock on the date of grant. Stock options generally vest over a three to four-year period. The maximum contractual term for all options is ten years. The following is a summary of stock option activity for the year ended December 31, 2019, in thousands (except per share and years data):

	Number of Shares	Weighted-Average Exercise Price per Share	Weighted-Average Remaining Contractual Term (years)	Aggregate Intrinsic Value
Outstanding at December 31, 2018	3,186	\$ 11.93		
Granted	1,948	\$ 16.19		
Exercised	(418)	\$ 6.14		
Canceled	(636)	\$ 15.63		
Outstanding at December 31, 2019	4,080	\$ 13.98	8.0	\$ 9,080
Vested and expected to vest at December 31, 2019	4,080	\$ 13.98	8.0	\$ 9,080
Exercisable at December 31, 2019	1,882	\$ 11.37	7.0	\$ 7,663

The aggregate intrinsic value in the above table is calculated as the difference between the closing price of our common stock at December 31, 2019 of \$13.75 per share and the exercise price of stock options that had strike prices below the closing price.

The following summarizes certain information regarding stock options, in thousands:

	Years Ended December 31,		
	2019	2018	2017
Cash received from options exercised during the period	\$ 2,562	\$ 1,035	\$ 232
Intrinsic value of options exercised during the period	\$ 4,311	\$ 1,822	\$ 151

The assumptions used to estimate the fair value of stock options granted to employees using the Black-Scholes model were as follows:

	Years Ended December 31,		
	2019	2018	2017
Weighted average grant date fair value per share	\$ 10.93	\$ 12.95	\$ 4.76
Expected volatility	73.1% — 77.2%	76.5% — 79.4%	75.4% — 77.7%
Expected term (in years)	5.50 — 6.08	5.50 — 6.08	5.50 — 6.08
Risk free interest rate	2.1% — 2.8%	2.1% — 2.8%	1.4% — 2.0%
Expected dividend yield	—	—	—

In estimating fair value for stock options issued under the 2014 Plan, expected volatility was based, in part, on our historical volatility and the historical volatility of comparable publicly-traded companies because our common stock has only been publicly traded since September 16, 2015. Due to the lack of historical option exercise data, we estimated the expected term using the simplified method. The risk-free interest rates are based on the U.S. Treasury zero-coupon bonds with maturities similar to those of the expected term of the award being valued. The expected dividend yield of zero reflects that we have not paid cash dividends since inception and do not intend to pay cash dividends in the foreseeable future. Actual forfeitures are applied as they occur, and any compensation cost previously recognized for awards for which the requisite service has not been completed is reversed in the period that the award is forfeited.

As of December 31, 2019, unrecognized estimated compensation expense related to options was \$23.0 million, which is expected to be recognized over the weighted-average remaining requisite service period of approximately 2.7 years.

### Restricted Stock Awards

Restricted stock awards were granted at a price equal to the estimated fair market value on the date of grant. The restricted stock awards generally vested over four years from the original vesting date, with certain grants subject to one-year cliff vesting. The vesting provisions of individual awards may vary as approved by our board of directors. In connection with the issuance of restricted common stock, we maintained a repurchase right where shares of restricted common stock were released from such repurchase right over a period of time of continued service by the recipient. The repurchase price for unvested stock awards was the lower of (i) the fair market value of the shares of common stock on the date of repurchase or (ii) their original purchase price. As of December 31, 2019, there were no shares subject to repurchase.

The total fair value of restricted stock awards vested during the years ended December 31, 2018 and 2017 was \$14.8 million and \$12.7 million, respectively. All restricted stock awards fully vested in 2018.

### Employee Stock Purchase Plan

In March 2015, our board of directors adopted the 2015 Employee Stock Purchase Plan, or ESPP. The ESPP permits eligible employees to purchase our common stock at a discount through payroll deductions during defined offering periods. Eligible employees may elect to withhold up to 15% of their base earnings to purchase shares of our common stock at a price equal to 85% of the fair market value on the first day of the offering period or the purchase date, whichever is lower. Successive six-month offering periods under the ESPP began on May 21, 2018. The number of shares of our common stock reserved for issuance under the ESPP will automatically increase on January 1 of each calendar year through January 1, 2025 by the lesser of 1% of the total number of shares of our common stock outstanding on December 31 of the preceding calendar year and 2,000,000 shares, subject to the ability of our board of directors to take action to reduce the size of the increase in any given year. In December 2019, our board of directors elected not to increase the total number of shares of our common stock reserved for issuance under the ESPP for 2020.

For the years ended December 31, 2019 and 2018, cash received from the exercise of purchase rights was approximately \$0.4 million and \$0.1 million, respectively. As of December 31, 2019, we have issued 39,543 shares under the ESPP. As of December 31, 2019, 199,162 shares of common stock are reserved for future issuance under the ESPP.

The assumptions used to estimate the fair value of ESPP stock purchase rights using the Black-Scholes model were as follows:

	Years Ended December 31,	
	2019	2018
Weighted average grant date fair value per share	\$ 4.44	\$ 3.87
Weighted average exercise price per share	\$ 11.01	\$ 10.15
Expected volatility	43.9% — 54.2%	53.8% — 54.4%
Expected term (in years)	0.50	0.50
Risk free interest rate	1.9% — 2.5%	1.8% — 2.3%
Expected dividend yield	—	—

In estimating fair value for ESPP purchase rights issued, expected volatility was based on our historical volatility. The expected term is six months, which represents the length of each purchase period. The risk-free interest rates are based on the U.S. Treasury zero-coupon bonds with maturities similar to those of the expected term. The expected dividend yield of zero reflects that we have not paid cash dividends since inception and do not intend to pay cash dividends in the foreseeable future.

The following table summarizes share-based compensation expense for all share-based compensation arrangements, in thousands:

	Years Ended December 31,		
	2019	2018	2017
Research and development	\$ 3,427	\$ 4,623	\$ 3,048
General and administrative	5,982	4,031	1,497
Total share-based compensation expense	<u>\$ 9,409</u>	<u>\$ 8,654</u>	<u>\$ 4,545</u>
<b>Restricted stock awards:</b>			
Employee	\$ —	\$ 95	\$ 132
Nonemployee	—	2,627	2,077
Total	<u>\$ —</u>	<u>\$ 2,722</u>	<u>\$ 2,209</u>
<b>Stock options:</b>			
Employee	\$ 9,066	\$ 5,581	\$ 2,190
Nonemployee	199	308	146
Total	<u>\$ 9,265</u>	<u>\$ 5,889</u>	<u>\$ 2,336</u>
<b>Employee stock purchase plan:</b>			
Employee	\$ 144	\$ 43	\$ —
Total	<u>\$ 144</u>	<u>\$ 43</u>	<u>\$ —</u>

## 12. Related Party Transactions

Our president and chief executive officer is also the sole managing member of Araxes, and is a significant stockholder of each of us and Araxes. The following is a summary of transactions with Araxes for the years ended December 31, 2019, 2018 and 2017:

- *Asset Purchase Agreement*

Under the asset purchase agreement with Araxes, for the year ended December 31, 2017, we paid to Araxes a milestone payment of \$0.2 million upon dosing of the first patient in the first KO-947 Phase 1 clinical trial in April 2017. There were no payments to Araxes under the asset purchase agreement for the years ended December 31, 2019 or 2018.

- *Facility Sublease*

We sublease office space in San Diego, California from Araxes. Rent expense, including operating costs, related to the Sublease and the New Sublease, as applicable, for each of the years ended December 31, 2019, 2018 and 2017 was approximately \$0.4 million, \$0.3 million and \$0.2 million, respectively. Pursuant to the terms of the Sublease, as amended in June 2016, the Sublease would have expired on October 31, 2019. In December 2016, we entered into a third amendment to Sublease pursuant to which the Sublease expired in June 2017.

In December 2016, we entered into the New Sublease with Wellspring, which was assigned from Wellspring to Araxes in August 2019, for office space in San Diego, California. The New Sublease commenced in June 2017 and would have expired on October 31, 2019. In March 2019, the New Sublease was amended to extend until April 30, 2020, and the monthly rent increased to approximately \$24,000 per month effective November 1, 2019. See Note 9, Commitments and Contingencies, for further details of the terms of the Sublease and New Sublease.

- *Management Fees*

We have a management services agreement with Araxes pursuant to which Araxes pays us monthly fees for management services calculated based on costs incurred by us in the provision of services to Araxes, plus a reasonable mark-up. For the years ended December 31, 2019, 2018 and 2017, we recorded approximately \$0.2 million, \$0.7 million and \$0.8 million, respectively, of management fee income. In addition, the agreement allows for Araxes to reimburse us an amount equal to the number of full-time equivalents, or FTE, performing research and development services for Araxes, at an annual FTE rate of approximately \$374,000, plus actual expenses as reasonably incurred. The initial term of this agreement expired on December 31, 2015 but, pursuant to the terms of the agreement, renews automatically for additional consecutive one-year periods. The agreement may be terminated by either party with a notice of at least 30 days prior to the expiration of the then-renewal term. For the years ended December 31, 2019, 2018 and 2017, we recorded reimbursements of approximately \$0.1 million, \$0.2 million and \$0.3 million, respectively, for research and development services provided to Araxes, which was recorded as a reduction to research and development expenses on the statements of operations and comprehensive loss. As of December 31, 2019 and 2018, approximately nil and \$0.2 million, respectively, related to management fees and reimbursements of research and development services are included in accounts receivable, related party on the balance sheets.

- *Services Agreement*

We have a services agreement with Wellspring pursuant to which we pay Wellspring for research and development services provided to us in an amount equal to the number of FTE's performing the services, at an annual FTE rate of \$400,000, plus actual expenses as reasonably incurred. The initial term of this services agreement expired on December 31, 2015 but, pursuant to the terms of the agreement, renews automatically for additional consecutive one-year periods. The agreement may be terminated by either party with a notice of at least 30 days prior to the expiration of the then-renewal term. For the years ended December 31, 2019, 2018 and 2017, we recognized approximately \$0.2 million, \$1.0 million and \$1.2 million, respectively, from research and development services provided to us under this agreement as research and development expense on the statements of operations and comprehensive loss. As of December 31, 2019 and 2018, approximately nil and \$0.2 million, respectively, related to research and development services under this agreement are included in accounts payable and accrued expenses on the balance sheets.

We have a services agreement with ALG Partners, Inc., or ALG Partners, a recruiting and temporary staffing agency. Our chief operating officer is an immediate family member of the president of ALG Partners. For the year ended December 31, 2019, expenses recognized as related party transactions with ALG Partners were approximately \$0.1 million. There were no related party expenses with ALG Partners for the years ended December 31, 2018 and 2017.

### 13. Employee Benefit Plan

We have a defined contribution 401(k) plan for all employees. Under the terms of the plan, employees may make voluntary contributions as a percentage or defined amount of compensation. We provide a safe harbor contribution of 3.0% of the employee's compensation, not to exceed eligible limits. For the years ended December 31, 2019, 2018 and 2017, we incurred approximately \$0.3 million, \$0.2 million and \$0.2 million, respectively, in expenses related to the safe harbor contribution.

### 14. Income Taxes

For the years ended December 31, 2019, 2018 and 2017, we did not record a provision for income taxes due to a full valuation against our deferred taxes.

Our effective income tax rate differs from the statutory federal rate of 21% for the years ended December 31, 2019 and 2018 and 34% for the year ended December 31, 2017, due to the following, in thousands:

	Years Ended December 31,		
	2019	2018	2017
Income taxes at statutory federal rate	\$ (13,259)	\$ (12,694)	\$ (12,048)
State income tax, net of federal benefit	(4,810)	(4,447)	(2,226)
Research and development tax credits	(1,664)	(1,469)	(476)
Share-based compensation	708	870	1,046
Other	199	(8)	(209)
Tax Cut and Jobs Act	—	—	9,517
Valuation allowance	18,826	17,748	4,396
Income tax expense	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>

Significant components of our deferred tax assets are shown below, in thousands:

	December 31,	
	2019	2018
Deferred tax assets		
Net operating loss carryforwards	\$ 53,590	\$ 37,329
Research and development tax credit carryforwards	4,748	3,140
Share-based compensation	2,134	1,426
Accruals	1,353	931
Intangibles	594	642
Other	171	131
Total deferred tax assets	62,590	43,599
Deferred tax liabilities	(165)	—
Less valuation allowance	(62,425)	(43,599)
Net deferred tax assets	<u>\$ —</u>	<u>\$ —</u>

As of December 31, 2019, we had federal net operating loss, or NOL, carryforwards of \$184.3 million, of which \$108.9 million can be carried forward indefinitely. The remaining federal net operating loss carryforwards of \$75.4 million will begin to expire in 2034, unless previously utilized. We had state loss carryforwards of \$216.7 million, of which \$216.2 million begin to expire in 2034 and \$0.5 million begin to expire in 2030, unless previously utilized. We also have federal and state research and development credit carryforwards of \$4.6 million and \$2.2 million, respectively. The federal research and development credits will begin to expire in 2034, unless previously utilized. Of the state research and development credits, \$1.5 million will carryforward indefinitely and approximately \$0.7 million will begin to expire in 2031, unless previously utilized.

We file tax returns as prescribed by the tax laws of the jurisdictions in which we operate. Our tax years since inception are subject to examination by the federal and state jurisdictions due to the carryforward of unutilized net operating losses and research and development credits. We have not been, nor are we currently, under examination by the federal or any state tax authority.

Management assesses the available positive and negative evidence to estimate if sufficient future taxable income will be generated to use existing deferred tax assets. Based on the weight of the evidence, including our limited existence and losses since inception, management has determined that it is more likely than not that the deferred tax assets will not be realized and therefore has recorded a full valuation allowance against the deferred taxes. The valuation allowance increased by \$18.8 million from December 31, 2018.

Pursuant to Sections 382 and 383 of the IRC annual use of our NOL or research and development credit carryforwards may be limited in the event a cumulative change in ownership of more than 50% occurs within a three-year period. We previously completed a study to assess whether an ownership change, as defined by IRC Section 382, had occurred from our formation through March 31, 2016. Based upon this study, we determined that an ownership change occurred but concluded the annual utilization limitation would be sufficient to utilize our pre-ownership change NOLs and research and development credits prior to expiration. We completed additional studies and concluded no further ownership changes occurred through December 31, 2018. We have not completed a study for 2019, however, we do not expect any material limitations to the utilization of NOL's or research and development credits. Future ownership changes may limit our ability to utilize remaining tax attributes. Any carryforwards that will expire prior to utilization as a result of such additional limitations will be removed from deferred tax assets, with a corresponding reduction of the valuation allowance.

In accordance with authoritative guidance, the impact of an uncertain income tax position is recognized at the largest amount that is "more likely than not" to be sustained upon audit by the relevant taxing authority. An uncertain tax position will not be recognized if it has less than a 50% likelihood of being sustained.

The following table summarizes the activity related to our unrecognized tax benefits, in thousands:

	December 31,		
	2019	2018	2017
Gross unrecognized tax benefits at the beginning of the year	\$ 1,063	\$ 615	\$ 358
Increases related to prior year tax positions	—	—	42
Increases from tax positions taken in the current year	678	448	215
Gross unrecognized tax benefits at the end of the year	<u>\$ 1,741</u>	<u>\$ 1,063</u>	<u>\$ 615</u>

Our practice is to recognize interest and penalties related to income tax matters in income tax expense. There was no accrued interest or penalties included on the balance sheets as of December 31, 2019 and 2018, and we have not recognized interest and penalties on the statements of operations and comprehensive loss for the years ended December 31, 2019, 2018 or 2017.

We do not expect that there will be a significant change in the unrecognized tax benefits over the next 12 months. Due to the existence of the valuation allowance, future changes in our unrecognized tax benefits will not impact our effective tax rate.

## 15. Selected Quarterly Financial Data (Unaudited)

The following is a summary of our quarterly results for the years ended December 31, 2019 and 2018, in thousands, (except per share data):

	Quarter				Year Ended
	First	Second	Third	Fourth	December 31, 2019
Operating expenses	\$ 14,951	\$ 15,891	\$ 17,674	\$ 18,963	\$ 67,479
Net loss	\$ (13,940)	\$ (14,943)	\$ (16,392)	\$ (17,865)	\$ (63,140)
Basic and diluted net loss per share	\$ (0.37)	\$ (0.38)	\$ (0.36)	\$ (0.39)	\$ (1.51)
Shares used in computing net loss per share, basic and diluted	38,168	38,928	45,241	45,333	41,946

	Quarter				Year Ended
	First	Second	Third	Fourth	December 31, 2018
Operating expenses	\$ 14,991	\$ 15,276	\$ 15,982	\$ 16,634	\$ 62,883
Net loss	\$ (14,604)	\$ (14,739)	\$ (15,007)	\$ (16,097)	\$ (60,447)
Basic and diluted net loss per share	\$ (0.46)	\$ (0.45)	\$ (0.40)	\$ (0.42)	\$ (1.72)
Shares used in computing net loss per share, basic and diluted	31,829	32,971	37,789	38,079	35,191

Net loss per share is computed independently for each of the quarters presented. Therefore, the sum of the quarterly per-share calculations will not necessarily equal the annual per share calculation.

## 16. Subsequent Event

On January 8, 2020, we entered into the San Diego Lease with BRE CA Office Owner LLC for the lease of approximately 13,420 square feet of rentable area of the building located at 12730 High Bluff Drive, San Diego, California 92130. The commencement of the San Diego Lease is expected to be May 1, 2020. The initial term of the San Diego Lease is five years and four months, to expire on August 31, 2025, and we have a one-time option to extend the San Diego Lease for a period of five additional years. The minimum rent payable under the San Diego Lease will be approximately \$58,000 per month for the first year, which amount will increase by 3.0% per year over the initial term. Additionally, the lease provides for an allowance of approximately \$1.0 million for the reimbursement of allowable tenant improvements expenses. We expect to use the premises as our new principal executive office and for general office use. In addition to base monthly rent, we will be obligated to pay for taxes, insurance and utilities applicable to the leased property.

**DESCRIPTION OF COMMON STOCK****General**

The following description summarizes the most important terms of our common stock. Because it is only a summary, it does not contain all the information that may be important to you. For a complete description of the matters set forth in this “Description of Common Stock,” you should refer to our amended and restated certificate of incorporation, as amended (the “Restated Certificate”), and amended and restated bylaws (the “Restated Bylaws”), which are included as exhibits to our Annual Report on Form 10-K, and to the applicable provisions of Delaware law. Our authorized capital stock consists of 200,000,000 shares of common stock, par value \$0.0001 per share, and 10,000,000 shares of undesignated preferred stock, par value \$0.0001 per share. Our board of directors is authorized, without stockholder approval except as required by the listing standards of The Nasdaq Stock Market LLC, to issue additional shares of our capital stock. In addition, our board of directors may, without further action by our stockholders, designate the rights, preferences, privileges, and restrictions of our preferred stock in one or more series.

**Voting Rights**

Our common stock is entitled to one vote for each share held of record on all matters submitted to a vote of the stockholders, including the election of directors, and does not have cumulative voting rights. Accordingly, the holders of a majority of the shares of our common stock entitled to vote in any election of directors can elect all of the directors standing for election.

**Dividends**

Subject to preferences that may be applicable to any then-outstanding preferred stock, the holders of common stock are entitled to receive dividends, if any, as may be declared from time to time by our board of directors out of legally available funds.

**Liquidation**

In the event of our liquidation, dissolution or winding-up, holders of our common stock will be entitled to share ratably in the net assets legally available for distribution to stockholders after the payment of all of our debts and other liabilities, subject to the satisfaction of any liquidation preference granted to the holders of any outstanding shares of preferred stock.

**Rights and Preferences**

Holders of our common stock have no preemptive, conversion or subscription rights, and there are no redemption or sinking fund provisions applicable to our common stock. The rights, preferences and privileges of the holders of our common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of our preferred stock that we may designate and issue in the future.

**Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is American Stock Transfer & Trust Company, LLC.

**Stock Exchange Listing**

Our common stock is listed on the Nasdaq Global Select Market under the symbol “KURA”.

**Anti-Takeover Provisions*****Delaware Law***

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We are subject to Section 203 (“Section 203”) of the Delaware General Corporate Law (“DGCL”). Section 203 generally prohibits a public Delaware corporation from engaging in a “business combination” with an “interested stockholder” for a period of three years following the time that such stockholder became an interested stockholder, unless:

- prior to such time the board of directors of the corporation approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
- upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding (but not the outstanding voting stock owned by the interested stockholder) those shares owned (i) by persons who are directors and also officers and (ii) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- at or subsequent to such time the business combination is approved by the board of directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock which is not owned by the interested stockholder.

Section 203 defines a business combination to include:

- any merger or consolidation involving the corporation and the interested stockholder;
- any sale, transfer, pledge or other disposition involving the interested stockholder of 10% or more of the assets of the corporation;
- subject to exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;
- subject to exceptions, any transaction involving the corporation that has the effect of increasing the proportionate share of the stock of any class or series of the corporation beneficially owned by the interested stockholder; and
- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation.

In general, Section 203 defines an interested stockholder as any entity or person beneficially owning 15% or more of the outstanding voting stock of the corporation and any entity or person affiliated with or controlling or controlled by the entity or person.

The statute could prohibit or delay mergers or other takeover or change in control attempts and, accordingly, may discourage attempts to acquire us even though such a transaction may offer our stockholders the opportunity to sell their stock at a price above the prevailing market price.

#### ***Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws Provisions***

Among other things, the Restated Certificate and Restated Bylaws:

- permit our board of directors to issue up to 10,000,000 shares of preferred stock, with any rights, preferences and privileges as they may designate (including the right to approve an acquisition or other change of control);
  - provide that the authorized number of directors may be changed only by resolution of our board of directors;
  - provide that directors may only be removed, subject to any limitation imposed by law, with cause by the holders of at least 66 2/3% of the voting power of all of our then-outstanding shares of the capital stock entitled to vote generally at an election of directors;
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- provide that all vacancies, including newly created directorships, may, except as otherwise required by law, be filled by the affirmative vote of a majority of directors then in office, even if less than a quorum;
- divide our board of directors into three classes;
- require that any action to be taken by our stockholders must be effected at a duly called annual or special meeting of stockholders and not be taken by written consent or electronic transmission;
- provide that stockholders seeking to present proposals before a meeting of stockholders or to nominate candidates for election as directors at a meeting of stockholders must provide advance notice in writing, and also specify requirements as to the form and content of a stockholder's notice;
- provide that special meetings of our stockholders may be called only by the chairman of our board of directors, our chief executive officer or by our board of directors pursuant to a resolution adopted by a majority of the total number of authorized directors (whether or not there exists any vacancies); and
- do not provide for cumulative voting rights (therefore allowing the holders of a majority of the shares of common stock entitled to vote in any election of directors to elect all of the directors standing for election, if they should so choose).

The amendment of any of these provisions, with the exception of the ability of our board of directors to issue shares of preferred stock and designate any rights, preferences and privileges thereto, would require the affirmative vote of the holders of at least 66 2/3% of the voting power of all of our then outstanding common stock.

The provisions of the DGCL and the provisions of the Restated Certificate and Restated Bylaws could have the effect of discouraging others from attempting hostile takeovers and, as a consequence, they might also inhibit temporary fluctuations in the market price of our common stock that often result from actual or rumored hostile takeover attempts. The authorization of undesignated preferred stock makes it possible for our board of directors to issue preferred stock with voting or other rights or preferences that could impede the success of any attempt to change our control. It is possible that these provisions could make it more difficult to accomplish transactions that stockholders might otherwise deem to be in their best interests.

The foregoing provisions may also make it more difficult for our existing stockholders to replace our board of directors as well as for another party to obtain control of us by replacing our board of directors. Since our board of directors has the power to retain and discharge our officers, these provisions could also make it more difficult for existing stockholders or another party to effect a change in management.

### **Choice of Forum**

The Restated Certificate and Restated Bylaws provide that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (a) any derivative action or proceeding brought on our behalf, (b) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers or other employees to us or our stockholders, (c) any action asserting a claim against us or any of our directors or officers or other employees arising pursuant to any provision of the DGCL, the Restated Certificate or the Restated Bylaws or (d) any action asserting a claim against us or any of our directors or officers or other employees governed by the internal affairs doctrine. The enforceability of similar choice of forum provisions in other companies' bylaws has been challenged in legal proceedings, and it is possible that a court could find these types of provisions to be inapplicable or unenforceable. This choice of forum provision does not apply to suits brought to enforce a duty or liability created by the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or any other claim for which the federal courts have exclusive jurisdiction.

**OFFICE LEASE**

This Office Lease (this “Lease”), dated January 8, 2020, by and between **BRE CA OFFICE OWNER LLC, a Delaware limited liability company (“Landlord”)**, and **KURA ONCOLOGY, INC., a Delaware corporation (“Tenant”)**. The following exhibits are incorporated herein and made a part hereof: **Exhibit A** (Outline of Premises); **Exhibit A-1** (Legal Description of Property); **Exhibit B** (Expenses and Taxes); **Exhibit C** (Work Letter); **Exhibit D** (Form of Confirmation Letter); **Exhibit E** (Rules and Regulations); **Exhibit F** (Additional Provisions); and **Exhibit G** (Judicial Reference).

**1 BASIC LEASE INFORMATION.****1.1 Premises.**

1.1.1 “**Building**”: 12730 High Bluff Drive, San Diego, California 92130, commonly known as Highlands Corporate Center.

1.1.2 “**Premises**”: 13,420 rentable square feet of space located on the 4th floor of the Building and commonly known as Suite 400, the outline and location of which is set forth in **Exhibit A**. If the Premises include any floor in its entirety, all corridors and restroom facilities located on such floor shall be considered part of the Premises.

1.1.3 “**Property**”: The Building, the parcel(s) of land upon which it is located, and, at Landlord’s discretion, any parking facilities and other improvements serving the Building and the parcel(s) of land upon which such parking facilities and other improvements are located.

1.1.4 “**Project**”: The Property or, at Landlord’s discretion, any project containing the Property and any other land, buildings or other improvements.

**1.2 Term.**

1.2.1 The term of this Lease (the “**Term**”) shall begin on the Commencement Date and expire on the Expiration Date (or any earlier date on which this Lease is terminated as provided herein).

1.2.2 “**Commencement Date**” means May 1, 2020. Notwithstanding anything to the contrary contained herein, Tenant shall have the right to commence business from the Premises during the period, if any (the “**Beneficial Occupancy Period**”) from the date of substantial completion of the Tenant Improvements in the Premises until the Commencement Date, provided that (i) Tenant shall give Landlord at least ten (10) days prior notice of any such occupancy of the Premises, (ii) a certificate of occupancy (or its equivalent) shall have been issued by the appropriate governmental authorities for the Premises, and (iii) all of the terms and conditions of this Lease shall apply, including Tenant’s obligations to pay parking fees pursuant to Section 1 of **Exhibit F** below, during the Beneficial Occupancy Period (if any), except that Tenant’s obligation to pay monthly Base Rent and any Expenses or Taxes shall not apply during the Beneficial Occupancy Period.

1.2.3 “**Expiration Date**”: The last day of the 64th full calendar month beginning on or after the Commencement Date.

**1.3 “Base Rent”**

Period of Term	Monthly Base Rent	Annual Base Rent Rate/RSF
Commencement Date - Last day of the 12th full calendar month of the Term	\$57,706.00	\$51.60
First day of the 13th full calendar month of the Term - Last day of the 24th full calendar month of the Term	\$59,439.42	\$53.15
First day of the 25th full calendar month of the Term - Last day of the 36th full calendar month of the Term	\$61,217.57	\$54.74
First day of the 37th full calendar month of the Term - Last day of the 48th full calendar month of the Term	\$63,051.63	\$56.38
First day of the 49th full calendar month of the Term - Last day of the 60th full calendar month of the Term	\$64,952.80	\$58.08

First day of the 61st full calendar month of the Term -	\$66,898.70	\$59.82
Last day of the 64th full calendar month of the Term		

Notwithstanding the foregoing, Base Rent shall be abated (the “**Abated Base Rent**”), in the amount of \$57,706.00 per month, for the period commencing on the first day of the 2nd full calendar month of the Term and ending on the last day of the 5th full calendar month of the Term (the “**Abatement Period**”); provided, however, that if a Default (defined in Section 18.1) exists when any such abatement would otherwise apply, such abatement shall be deferred until the date, if any, on which such Default is cured.

1.4 “**Base Year**” means calendar year 2020.

1.5 “**Tenant’s Share**” means 22.4014% (based upon a total of 59,907 rentable square feet in the Building).

1.6 “**Permitted Use**” means general office use consistent with a first-class office building.

1.7 “**Security Deposit**” means \$66,897.07, as more particularly described in Section 20. The amount of the Prepaid Base Rent (defined in Section 3) is \$57,706.00.

1.8 **Parking.** During the initial Term, Tenant shall have the right to use (a) 45 unreserved parking space(s), at the rate of \$0.00 per space per month (as such rate may be adjusted from time to time to reflect Landlord’s then current rate), and (b) 5 reserved parking space(s), at locations designated by Landlord and at the rate of \$100.00 per space per month (as such rate may be adjusted from time to time to reflect Landlord’s then current rate).

1.9 **Address of Tenant.** Before the Commencement Date, notices shall be sent to Tenant at: c/o CBRE, Inc., 400 South Hope Street, 25<sup>th</sup> Floor, Los Angeles, CA 90071, Attention: Gregg Pasternack, Senior Vice President. On and after the Commencement Date, notices shall be sent to Tenant at the Premises.

1.10 **Address of Landlord.** Notices shall be sent to Landlord at BRE CA Office Owner LLC, c/o EQ Office, 6080 Center Drive, Suite 120, Los Angeles, CA 90045, Attention: Regional Finance Group - MLA, with copies to BRE CA Office Owner LLC, c/o EQ Office, 3100 Bristol Street, Suite 200, Costa Mesa, California 92626, Attention: Senior Corporate Counsel, and BRE CA Office Owner LLC, c/o EQ Office, 233 South Wacker Drive, Suite 4700, Chicago, Illinois 60606 – 6374, Attention: Lease Administration.

1.11 **Brokers.** Sean Fitzmaurice, CBRE, 4301 La Jolla Village Drive, San Diego, CA 92122 (“Tenant’s Broker”), representing Tenant, and Mike Hoeck, CBRE, 4301 La Jolla Village Drive, San Diego, CA 92122 (“Landlord’s Broker”), representing Landlord.

1.12 **Guarantor.** As of the date hereof, there is no Guarantor.

## 2 PREMISES AND COMMON AREAS.

### 2.1 The Premises.

2.1.1 Subject to the terms hereof, Landlord hereby leases the Premises to Tenant and Tenant hereby leases the Premises from Landlord. Landlord and Tenant acknowledge that the rentable area of the Premises is as set forth in Section 1.1.2 and the rentable area of the Building is as set forth in Section 1.1.3. At any time, Landlord may deliver to Tenant a notice substantially in the form of **Exhibit D**, as a confirmation of the information set forth therein. Tenant shall execute and return (or, by notice to Landlord, reasonably object to) such notice within 10 business days after receiving it.

2.1.2 Except as expressly provided herein, the Premises are accepted by Tenant in their “as is”, “where is” configuration and condition existing on the date hereof (or in such other configuration and condition as any existing tenant of the Premises may cause to exist in accordance with its lease), without any obligation of Landlord to perform or pay for any alterations to the Premises, and without any representation or warranty regarding the configuration or condition of the Premises, the Building or the Project or their suitability for Tenant’s business.

2.1.3 This Lease is solely a lease of space in the Building and does not constitute a lease of any land.

2.2 **Common Areas.** Tenant may use, in common with Landlord and other parties and subject to the Rules and Regulations (defined in Exhibit E), any portions of the Property that are designated from time to time by Landlord for such use (the “**Common Areas**”).

2.3 **Exclusive Patio Area.** If Landlord is able to obtain all required governmental permits and approvals, and any approvals required under applicable covenants, conditions and restrictions, Landlord shall construct, at Landlord's sole cost and expense, a patio extending out from the fourth (4<sup>th</sup>) floor of the Building on the east-facing side of the Premises (the "**Patio Area**") pursuant to plans and specifications determined by Landlord. Landlord shall use its good-faith, commercially reasonable and diligent efforts to obtain the necessary permits and approvals, but Landlord makes no representation or warranty as to whether Landlord will be successful in obtaining such permits and approvals, and if Landlord is unable to obtain such permits and approvals, Landlord shall not be subject to any liability for its failure to do so, the Commencement Date shall not be delayed, and such failure shall not affect the validity of this Lease nor the obligations of Tenant hereunder; provided that Tenant shall be provided with one-and-a-half (1.5) months of additional Abated Base Rent, which additional abatement shall be applied immediately after the Abatement Period referenced in Section 1.3 above. If constructed, the Patio Area shall be for Tenant's exclusive use, and shall be deemed part of the Premises for all purposes except for calculation of the rentable square footage set forth in Section 1.1.2 above. Accordingly, all of Tenant's obligations under this Lease with regard to the interior Premises shall extend to the Patio Area, including, without limitation, Tenant's insurance, indemnity, repair and maintenance obligations. If Landlord obtains all required permits and approvals, Landlord shall use commercially reasonable efforts to complete the Patio Area prior to the Commencement Date; however if Landlord is unable to complete the Patio Area prior to the Commencement Date, Landlord shall not be subject to any liability for its failure to do so, the Commencement Date shall not be delayed, and such failure shall not affect the validity of this Lease nor the obligations of Tenant hereunder. Landlord and Tenant hereby acknowledge that if Landlord obtains all required permits and approvals, Landlord may be constructing the Patio Area during Tenant's construction of the Tenant Improvement Work pursuant to the Work Letter attached hereto as **Exhibit C**. In such case, Landlord and Tenant shall reasonably cooperate and coordinate Landlord's work on the Patio Area with Tenant's completion of the Tenant Improvement Work. Tenant further acknowledges that any work necessary to provide ingress and egress between the Premises and the Patio Area shall be performed by Tenant as part of the Tenant Improvement Work under **Exhibit C**.

### 3 RENT.

3.1 **General.** Tenant shall pay all Base Rent and Additional Rent (defined below) (collectively, "**Rent**") to Landlord or Landlord's agent, without prior notice or demand (except to the extent expressly provided herein) or any setoff or deduction, at the place Landlord may designate from time to time, in money of the United States of America that, at the time of payment, is legal tender for the payment of all obligations. "**Additional Rent**" means all amounts, other than Base Rent, that Tenant is required to pay Landlord hereunder. Monthly payments of Base Rent and monthly payments of Additional Rent for Expenses (defined in **Exhibit B**), Taxes (defined in **Exhibit B**) and parking (collectively, "**Monthly Rent**") shall be paid in advance on or before the first day of each calendar month during the Term; provided, however, that the installment of Base Rent for the first full calendar month for which Base Rent is payable hereunder ("**Prepaid Base Rent**") shall be paid upon Tenant's execution and delivery hereof. Except as otherwise provided herein, all other items of Additional Rent shall be paid within 30 days after Landlord's request for payment. Rent for any partial calendar month shall be prorated based on the actual number of days in such month. Without limiting Landlord's other rights or remedies, (a) if any payment of Rent is not received by Landlord or its designee within 5 business days after its due date, Tenant shall pay Landlord a late charge equal to 5% of the overdue amount; and (b) any Rent that is not paid within 10 days after its due date shall bear interest, from its due date until paid, at the lesser of 10% per annum or the highest rate permitted by Law (defined in **Section 4**). Tenant's covenant to pay Rent is independent of every other covenant herein. Notwithstanding the foregoing, Tenant shall be entitled to notice and the expiration of a five (5) day cure period prior to imposition of any late charge or interest charge under this Section 3.1 one (1) time per calendar year; after such written notice has been provided to Tenant in a calendar year, Tenant shall not be entitled to any further notice prior to imposition of a late charge or interest under this Section 3.1 in such calendar year.

3.2 **Expenses and Taxes.** Tenant shall pay Tenant's Share of Expenses and Taxes in accordance with **Exhibit B**.

4 **USE; COMPLIANCE WITH LAWS.** Tenant shall not (a) use the Premises for any purpose other than the Permitted Use, or (b) do anything in or about the Premises that violates any of the Rules and Regulations, unreasonably interferes with, injures or annoys other occupants of the Project, or constitutes a nuisance. Tenant, at its expense, shall comply with all Laws relating to (i) the operation of its business at the Project, (ii) the use, condition, configuration or occupancy of the Premises, (iii) any Supplemental Systems (defined below) serving the Premises, whether located inside or outside of the Premises, or (iv) the portions of Base Building Systems (defined below) located in or exclusively serving the Premises. If, in order to comply with any such Law, Tenant must obtain or deliver any permit, certificate or other document evidencing such compliance, Tenant shall provide a copy of such document to Landlord promptly after obtaining or delivering it. Tenant shall promptly provide Landlord with a copy of any notice it receives regarding any alleged violation of Law with respect to the Premises or Tenant's use or occupancy thereof. Except to the extent compliance with applicable Laws is the responsibility of Tenant under this

Lease, Landlord shall comply with all applicable Laws relating to the Base Building and the Common Areas, but Landlord shall only have such responsibility if Landlord's failure to comply therewith would prohibit Tenant from obtaining or maintaining a certificate of occupancy (or its equivalent) for the Premises, or would unreasonably and materially affect the safety of Tenant's employees or create a significant health hazard for Tenant's employees. If a change to the Common Areas or the Base Building (defined below) (other than any portion of a Base Building System located in or exclusively serving the Premises, which shall be governed by the second sentence of this Section 4) becomes required under Law (or if any such requirement is enforced) as a result of any Tenant-Insured Improvement (defined in Section 9.2.2) which is not typical for general office use, the installation of any trade fixture, any particular use of the Premises (as distinguished from general office use), any "assembly occupancy" of the Premises or any breach of Tenant's obligations under this Lease, then Tenant, upon demand, shall pay Landlord the cost of making such change. "Law" means any existing or future law, ordinance, regulation or requirement of any governmental authority having jurisdiction over the Project or the parties. "**Supplemental System**" means any Unit (defined in Section 23.5), supplemental fire-suppression system, kitchen (including any hot water heater, dishwasher, garbage disposal, insta-hot dispenser, or plumbing), shower or similar facility, or any other system that would not customarily be considered part of the base building of a first-class multi-tenant office building. "**Base Building System**" means any mechanical (including HVAC), electrical, plumbing or fire/life-safety system serving the Building, other than a Supplemental System. "**Base Building**" means the structural portions of the Building, together with the Base Building Systems.

## 5 SERVICES.

5.1 **Standard Services.** Landlord shall provide the following services on all days (unless otherwise stated below): (a) subject to limitations imposed by Law, Building-standard heating, ventilation and air conditioning ("**HVAC**") in season during Building HVAC Hours (defined below), stubbed to the Premises; (b) electricity supplied by the applicable public utility, stubbed to the Premises; (c) water supplied by the applicable public utility (i) for use in lavatories and any drinking facilities located in Common Areas within the Building, and (ii) stubbed to the Building core for use in any plumbing fixtures located in the Premises; (d) janitorial services to the Premises, except on weekends and Holidays (defined below); (e) elevator service (subject to scheduling by Landlord, and payment of Landlord's standard usage fee, for any freight service); and (f) access to the Building for Tenant and its employees, 24 hours per day/7 days per week, subject to the terms hereof and such security or monitoring systems as Landlord may reasonably impose, including sign-in procedures and/or presentation of identification cards. To the extent reasonably determined by Landlord to be practicable, all electricity provided under Section 5.1(b) above (including, without limitation, electricity in order to power the heating, ventilation and air conditioning system serving the Premises), shall be separately metered or submetered at Tenant's expense (and such meter or submeter may be installed as part of the Tenant Improvements) and Tenant shall make payment directly to the entity providing such electricity to the Premises if such separate meters are installed. If, however, separate meters are not installed and the Premises are submetered or are jointly metered, then Landlord shall determine and Tenant shall pay the amount reasonably determined by Landlord to be Tenant's equitable share of the monthly charge for such electricity, as Additional Rent. "**Building HVAC Hours**" means 8:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 1:00 p.m. on Saturday, excluding the day of observation of New Year's Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and, at Landlord's discretion, any other locally or nationally recognized holiday that is observed by other Comparable Buildings (defined in Section 23.9) (collectively, "**Holidays**"). If Landlord, at Tenant's request, provides any service not expressly required hereunder, Tenant shall pay Landlord the reasonable cost thereof.

5.2 **Above-Standard Use.** Landlord shall provide Building-standard HVAC service outside of Building HVAC Hours if Tenant gives Landlord reasonable prior notice thereof and pays Landlord's standard charge therefor, which standard charge is currently \$35.00 per hour for the entire Premises, and which charge shall only increase to the extent Landlord reasonably determines that Landlord's actual cost to provide such services increases. The connected electrical load of Tenant's incidental-use equipment shall not exceed the Building-standard electrical design load or be distributed within the Premises in a manner that violates applicable Law. If Tenant's consumption of electricity or water exceeds the rate Landlord reasonably deems to be standard for the Building, Tenant shall pay Landlord, upon billing, the cost of such excess consumption, including any costs of installing, operating and maintaining any equipment that is installed in order to supply or measure such excess electricity or water.

5.3 **Interruption.** Subject to this Section 5.3 and Section 10, any failure to furnish, delay in furnishing, or diminution in the quality or quantity of any service resulting from any application of Law, failure of equipment, performance of maintenance, repairs, improvements or alterations, utility interruption, or event of Force Majeure (each, a "**Service Interruption**") shall not render Landlord liable to Tenant, constitute a constructive eviction, or excuse Tenant from any obligation hereunder. Notwithstanding the foregoing, an "**Abatement Event**" shall be defined as an event that prevents Tenant from using the Premises or any portion thereof, as a result of any failure to provide services or access to the Premises, where (a) such event is within Landlord's reasonable control, (b) Tenant does not actually use the Premises or such portion thereof, and (c) such event is not caused by the negligence or willful misconduct of Tenant,

its agents, employees or contractors. Tenant shall give Landlord notice (“**Abatement Notice**”) of any such Abatement Event, and if such Abatement Event continues beyond the “Eligibility Period” (as that term is defined below), then the Base Rent and Tenant’s Share of Expenses and Taxes shall be abated entirely or reduced, as the case may be, after expiration of the Eligibility Period for such time that Tenant continues to be so prevented from using, and does not use, the Premises or a portion thereof, in the proportion that the rentable area of the portion of the Premises that Tenant is prevented from using, and does not use, bears to the total rentable area of the Premises. The term “**Eligibility Period**” shall mean a period of five (5) consecutive business days after Landlord’s receipt of any Abatement Notice(s). Such right to abate Base Rent and Tenant’s Share of Expenses and Taxes shall be Tenant’s sole and exclusive remedy at law or in equity for an Abatement Event. If a fire or other casualty results in Tenant’s inability to use the Premises or a portion thereof, the terms and conditions of Section 10 below shall apply rather than this Section 5.3.

## **6 REPAIRS AND ALTERATIONS.**

6.1 **Repairs.** Subject to Section 10, Tenant, at its expense, shall perform all maintenance and repairs (including replacements) to the Premises, and keep the Premises in as good condition and repair as existed when Tenant took possession and as thereafter improved, except for reasonable wear and tear and repairs that are Landlord’s express responsibility hereunder. Tenant’s maintenance and repair obligations shall include (a) all leasehold improvements in the Premises, including any Tenant Improvements (defined in Exhibit C, if any), any Alterations (defined in Section 6.2), and any leasehold improvements installed pursuant to any prior lease (the “**Leasehold Improvements**”), but excluding the Base Building; (b) any Supplemental Systems serving the Premises, whether located inside or outside of the Premises; and (c) all Lines (defined in Section 22) and trade fixtures. Notwithstanding the foregoing, if a Default (defined in Section 18.1) or an emergency exists, Landlord may, at its option, perform such maintenance and repairs on Tenant’s behalf, in which case Tenant shall pay Landlord, upon demand, the cost of such work. Landlord shall perform all maintenance and repairs to (i) the roof and exterior walls and windows of the Building, (ii) the Base Building, and (iii) the Common Areas.

6.2 **Alterations.** Tenant may not make any improvement, alteration, addition or change to the Premises or to any mechanical, plumbing or HVAC facility or other system (an “**Alteration**”) without Landlord’s prior consent, which consent shall not be unreasonably withheld by Landlord. Notwithstanding the foregoing, Landlord’s prior consent shall not be required for any Alteration that is decorative only (*e.g.*, carpet installation or painting), is not visible from outside the Premises, and does not affect the Base Building or require a governmental permit (a “**Cosmetic Alteration**”). For any Alteration other than a Cosmetic Alteration, (a) Tenant, before beginning work, shall deliver to Landlord, and obtain Landlord’s approval of, plans and specifications; (b) Landlord, in its discretion, may require Tenant to obtain security for performance satisfactory to Landlord; (c) Tenant shall deliver to Landlord “as built” drawings (in CAD format, if requested by Landlord), completion affidavits, and governmental approvals; and (d) Tenant shall pay Landlord upon demand (i) Landlord’s reasonable out-of-pocket expenses incurred in reviewing the work, and (ii) a coordination fee equal to 3% of the cost of the work; provided, however, that this clause (d) shall not apply to any Tenant Improvements. For any Alteration, Tenant shall deliver to Landlord full and final lien waivers.

6.3 **Tenant Work.** Before beginning any repair or Alteration or any work affecting Lines (collectively, “**Tenant Work**”), Tenant shall deliver to Landlord, and obtain Landlord’s approval of, (a) names of contractors, subcontractors, mechanics, laborers and materialmen; (b) evidence of contractors’ and subcontractors’ insurance; and (c) any required governmental permits. Such approval shall not be unreasonably withheld provided that Landlord may designate specific contractors for work relating to mechanical, electrical, plumbing, HVAC, fire/life-safety and sprinkler systems and for vertical Lines (provided that, to the extent reasonably feasible, more than one contractor per trade is named, or, if only one contractor is available, such contractor is available to perform the work for a commercially reasonable cost). Tenant shall perform all Tenant Work (i) in a good and workmanlike manner using materials of a quality reasonably approved by Landlord; (ii) in compliance with any approved plans and specifications and any approved modifications thereto, all Laws, the National Electric Code, and Landlord’s reasonable construction rules and regulations; and (iii) in a manner that does not impair the Base Building. Tenant shall notify Landlord at least 15 business days before commencing any work in the Premises. If, as a result of any Tenant Work, Landlord becomes required under Law to perform any inspection, give any notice, or cause such Tenant Work to be performed in any particular manner, Tenant shall comply with such requirement and promptly provide Landlord with reasonable documentation of such compliance. Landlord’s approval of Tenant’s plans and specifications shall not relieve Tenant from any obligation under this Section 6.3. In performing any Tenant Work, Tenant shall not use contractors, services, labor, materials or equipment that, in Landlord’s reasonable judgment, would cause labor disharmony with any workforce or trades engaged in performing other work or services at the Project, and Tenant shall take all actions necessary to resolve any such labor disharmony, including, promptly upon Landlord’s request, termination of any work in the Premises giving rise to such labor disharmony.

7 **LANDLORD’S PROPERTY.** All Leasehold Improvements shall become Landlord’s property upon installation and without compensation to Tenant. Notwithstanding the foregoing, if any Tenant-

Insured Improvements (other than any Unit, which shall be governed by Section 23.5) are not, in Landlord's reasonable judgment, Building-standard, then if Landlord notifies Tenant of such requirement at the time consent to such Alterations is granted, then before the expiration or earlier termination hereof, Tenant shall, at Landlord's election, either (a) at Tenant's expense, and except as otherwise notified by Landlord, remove such Tenant-Insured Improvements, repair any resulting damage to the Premises or Building, and restore the affected portion of the Premises to its configuration and condition existing before the installation of such Tenant-Insured Improvements (or, at Landlord's election, to a Building-standard tenant-improved configuration and condition as determined by Landlord), or (b) pay Landlord an amount equal to the estimated cost of such work, as reasonably determined by Landlord. If Tenant fails to timely perform any work required under clause (a) of the preceding sentence, Landlord may perform such work at Tenant's expense.

**8 LIENS.** Tenant shall keep the Project free from any lien arising out of any work performed, material furnished or obligation incurred by or on behalf of Tenant or its subtenants or transferees. Tenant shall remove any such lien within 10 business days after notice from Landlord, and if Tenant fails to do so, Tenant shall be deemed in Default under this Lease, and in addition, Landlord, without limiting its remedies, may bond, insure over or otherwise pay the amount necessary to cause such removal, whether or not such lien is valid. The amount so paid, together with reasonable attorneys' fees and expenses, shall be reimbursed by Tenant upon demand.

## **9 INDEMNIFICATION; INSURANCE.**

9.1 **Waiver and Indemnification.** Tenant waives all claims against Landlord, its Security Holders (defined in Section 16), Landlord's managing agent(s), their (direct or indirect) owners, and the beneficiaries, trustees, managers, members, principals, partners, officers, directors, employees and agents of each of the foregoing (including Landlord, the "**Landlord Parties**") for (i) any damage to person or property (or resulting from the loss of use thereof), except (subject to Section 9.4) to the extent such damage is caused by any negligence, willful misconduct or breach of this Lease of or by any Landlord Party, or (ii) any failure to prevent or control any criminal or otherwise wrongful conduct by any third party or to apprehend any third party who has engaged in such conduct. Tenant shall indemnify, defend, protect, and hold the Landlord Parties harmless from and against any obligation, loss, claim, action, liability, penalty, damage, cost, charge or expense (including reasonable attorneys' and consultants' fees and expenses) (each, a "**Claim**") that is imposed or asserted by any third party and arises from (a) any cause occurring in, on or about the Premises, or (b) any negligence, willful misconduct or breach of this Lease of or by Tenant, any party claiming by, through or under Tenant, their (direct or indirect) owners, or any of their respective beneficiaries, trustees, managers, members, principals, partners, officers, directors, employees, agents, contractors, licensees or invitees (each, an "**Act of Tenant**"), except to the extent such Claim arises from any negligence, willful misconduct or breach of this Lease of or by any Landlord Party. Landlord shall indemnify, defend, protect, and hold Tenant, its (direct or indirect) owners, and their respective beneficiaries, trustees, managers, members, principals, partners, officers, directors, employees and agents harmless from any Claim that is imposed or asserted by any third party and arises from any negligence, willful misconduct or breach of this Lease of or by any Landlord Party, except to the extent such Claim arises from any Act of Tenant (including any breach of any obligation of Tenant, under Section 4 or 6.3 or any other provision hereof, to cause or pay for any such compliance).

9.2 **Tenant's Insurance.** Tenant shall maintain the following coverages in the following amounts:

9.2.1 Commercial General Liability Insurance covering claims of bodily injury, personal injury and property damage arising out of Tenant's operations and contractual liabilities, including coverage formerly known as broad form, on an occurrence basis, with combined primary and excess/umbrella limits of at least \$3,000,000 each occurrence and \$4,000,000 annual aggregate.

9.2.2 Property Insurance covering (i) all office furniture, trade fixtures, office equipment, free-standing cabinet work, movable partitions, merchandise and all other items of Tenant's property in the Premises installed by, for, or at the expense of Tenant, and (ii) any Leasehold Improvements installed by or for the benefit of Tenant, whether pursuant to this Lease or pursuant to any prior lease or other agreement to which Tenant was a party ("**Tenant-Insured Improvements**"). Such insurance shall be written on a special cause of loss or all risk form for physical loss or damage, for the full replacement cost value (subject to reasonable deductible amounts) new without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance, and shall include coverage for damage or other loss caused by fire or other peril, including vandalism and malicious mischief, theft, water damage of any type, including sprinkler leakage, bursting or stoppage of pipes, and explosion, and providing business interruption coverage for a period of one year.

9.2.3 Workers' Compensation with limits required by statute and Employers' Liability limits of \$1,000,000.

9.3 **Form of Policies.** The minimum limits of insurance required to be carried by Tenant shall not limit Tenant's liability. Such insurance shall be issued by an insurance company that has an A.M. Best rating of not less than A-VIII. Tenant's Commercial General Liability Insurance shall (a) name the Landlord Parties and any other party reasonably designated by Landlord ("**Additional Insured Parties**") as additional insureds; and (b) be primary insurance as to all claims thereunder and provide that any insurance carried by Landlord is excess and non-contributing with Tenant's insurance. Landlord shall be designated as a loss payee with respect to Tenant's Property Insurance on any Tenant-Insured Improvements. Tenant shall deliver to Landlord, on or before the Commencement Date and at least 15 days before the expiration dates thereof, certificates from Tenant's insurance company on the forms currently designated "ACORD 25" (Certificate of Liability Insurance) and "ACORD 28" (Evidence of Commercial Property Insurance) or the equivalent. Attached to the ACORD 25 (or equivalent) there shall be an endorsement (or an excerpt from the policy) naming the Additional Insured Parties as additional insureds, and attached to the ACORD 28 (or equivalent) there shall be an endorsement (or an excerpt from the policy) designating Landlord as a loss payee with respect to Tenant's Property Insurance on any Tenant-Insured Improvements, and each such endorsement (or policy excerpt) shall be binding on Tenant's insurance company.

9.4 **Subrogation.** Subject to [Section 10](#), each party waives, and shall cause its insurance carrier to waive, any right of recovery against the other party, any of its (direct or indirect) owners, or any of their respective beneficiaries, trustees, managers, members, principals, partners, officers, directors, employees or agents for any loss of or damage to property which loss or damage is (or, if the insurance required hereunder had been carried, would have been) covered by the waiving party's property insurance. For purposes of this [Section 9.4](#) only, (a) any deductible with respect to a party's insurance shall be deemed covered by, and recoverable by such party under, valid and collectable policies of insurance, and (b) any contractor retained by Landlord to install, maintain or monitor a fire or security alarm for the Building shall be deemed an agent of Landlord.

9.5 **Landlord's Insurance.** Landlord shall maintain the following insurance, together with such other insurance coverage as Landlord, in its reasonable judgment, may elect to maintain (collectively, "**Landlord's Insurance**"), the premiums of which will be included in Expenses: (1) Commercial General Liability insurance applicable to the Property, Building and Common Areas providing, on an occurrence basis, combined primary and excess/umbrella limits of at least \$3,000,000.00 each occurrence and \$4,000,000 annual aggregate; and (2) All Risk Property Insurance or special cause of loss insurance on the Building at replacement cost value as reasonably estimated by Landlord.

**10 CASUALTY DAMAGE.** With reasonable promptness after discovering any damage to the Premises (other than trade fixtures), or to any Common Area or portion of the Base Building necessary for access to or tenantability of the Premises, resulting from any fire or other casualty (a "**Casualty**"), Landlord shall notify Tenant of Landlord's reasonable estimate of the time required to substantially complete repair of such damage (the "**Landlord Repairs**"). If, according to such estimate, the Landlord Repairs cannot be substantially completed within 270 days after they are commenced, either party may terminate this Lease upon 60 days' notice to the other party delivered within 10 days after Landlord's delivery of such estimate. Within 90 days after discovering any damage to the Project resulting from any Casualty, Landlord may, whether or not the Premises are affected, terminate this Lease by notifying Tenant if (i) any Security Holder terminates any ground lease or requires that any insurance proceeds be used to pay any mortgage debt; (ii) any damage to Landlord's property is not fully covered by Landlord's insurance policies; (iii) Landlord decides to rebuild the Building or Common Areas so that it or they will be substantially different structurally or architecturally, or (iv) the damage occurs during the last 12 months of the Term. Tenant may terminate this Lease, by notifying Landlord within 30 days after receiving Landlord's estimate of the time required to substantially complete the Landlord Repairs, if (a) the Casualty has occurred during the last 12 months of the Term and has damaged a material portion of the Premises, and (b) such estimate indicates that the damage cannot reasonably be repaired within 60 days after Tenant's receipt of such estimate. If this Lease is not terminated pursuant to this [Section 10](#), Landlord shall promptly and diligently perform the Landlord Repairs, subject to reasonable delays for insurance adjustment and other events of Force Majeure. The Landlord Repairs shall restore the Premises (other than trade fixtures) and any Common Area or portion of the Base Building necessary for access to or tenantability of the Premises to substantially the same condition that existed when the Casualty occurred, except for (a) any modifications required by Law or any Security Holder, and (b) any modifications to the Common Areas that are deemed desirable by Landlord, are consistent with the character of the Project, and do not materially impair access to or tenantability of the Premises. Notwithstanding [Section 9.4](#), Tenant shall assign to Landlord (or its designee) all insurance proceeds payable to Tenant under Tenant's insurance required under [Section 9.2](#) with respect to any Tenant-Insured Improvements (the "**Assigned Tenant Proceeds**"), and if the estimated or actual cost of restoring any Tenant-Insured Improvements exceeds the Assigned Tenant Proceeds received by Landlord, Tenant shall pay such excess to Landlord (the "**Tenant Excess**") within 15 days after Landlord's demand. In no event shall Landlord be required to spend more for the restoration of any Tenant-Insured Improvements than the applicable Assigned Tenant Proceeds and Tenant Excess (if any) actually received by Landlord. No Casualty and no restoration performed as required hereunder shall render Landlord liable to Tenant, constitute a constructive eviction, or excuse Tenant from any obligation

hereunder; provided, however, that if the Premises (other than trade fixtures) or any Common Area or portion of the Base Building necessary for access to or tenantability of the Premises is damaged by a Casualty, then, during any time that, as a result of such damage, any portion of the Premises is inaccessible or untenable and is not occupied by Tenant, Monthly Rent shall be abated in proportion to the rentable area of such portion of the Premises; provided that if a portion of the Premises is damaged such that the remaining portion thereof is not sufficient to allow Tenant to conduct its business operations from such remaining portion, Tenant shall be entitled to a total abatement of Rent during the time and to the extent the Premises are unfit for occupancy for the purposes permitted by this Lease and are not occupied by Tenant.

**11 NONWAIVER.** No provision hereof shall be deemed waived by either party unless it is waived by such party expressly and in writing, and no waiver of any breach of any provision hereof shall be deemed a waiver of any subsequent breach of such provision or any other provision hereof. Landlord's acceptance of Rent shall not be deemed a waiver of any preceding breach of any provision hereof, other than Tenant's failure to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of such acceptance. Any acceptance by Landlord of payment of less than the full amount of Rent due hereunder shall not be deemed a waiver of Landlord's right to receive the full amount of Rent due and shall be applied first to the oldest Rent obligation then due and next to any current Rent obligation then due, in each case notwithstanding any statement to the contrary contained on or accompanying such payment from Tenant. No receipt of monies by Landlord from Tenant after the giving of any notice, the commencement of any suit, the issuance of any final judgment, or the termination hereof shall affect such notice, suit or judgment, or reinstate or extend the Term or Tenant's right of possession hereunder.

**12 CONDEMNATION.** If any part of the Premises, Building or Project is to be taken for any public or quasi-public use by power of eminent domain or by private purchase in lieu thereof (a "Taking") for more than 180 consecutive days, Landlord may terminate this Lease. If more than 25% of the rentable area of the Premises, or if any Common Area or portion of the Base Building necessary for access to or tenantability of the Premises, is to be Taken for more than 180 consecutive days, Tenant may terminate this Lease. Any such termination shall be effective as of the date possession must be surrendered to the authority, and the terminating party shall provide termination notice to the other party within 45 days after receiving written notice of such surrender date. Except as provided above in this Section 12, neither party may terminate this Lease as a result of a Taking. Tenant shall not assert, and hereby assigns to Landlord, any claim it may have for compensation because of any Taking; provided, however, that Tenant may file a separate claim for any Taking of Tenant's personal property or any trade fixtures that Tenant is entitled to remove upon the expiration hereof, and for moving expenses, so long as such claim does not diminish the award available to Landlord or any Security Holder and is payable separately to Tenant. If this Lease is terminated pursuant to this Section 12, all Rent shall be apportioned as of the date of such termination. If a Taking occurs and this Lease is not so terminated, Monthly Rent shall be abated for the period of such Taking in proportion to the percentage of the rentable area of the Premises, if any, that is subject to, or rendered inaccessible or untenable by, such Taking and not occupied by Tenant.

### **13 ASSIGNMENT AND SUBLETTING.**

**13.1 Transfers.** Tenant shall not, without Landlord's prior consent (subject to Sections 13.2 and 13.8), assign, mortgage, pledge, hypothecate, encumber, permit any lien to attach to, or otherwise transfer this Lease or any interest hereunder, permit any assignment or other transfer hereof or any interest hereunder by operation of law, enter into any sublease, otherwise permit the occupancy or use of any part of the Premises by any persons other than Tenant and its employees and contractors (each, a "**Transfer**"). For clarity, no transfer of Tenant's equity including, without limitation, any common or preferred stock sales (whether conducted on a stock exchange or otherwise), tender offers, new issuances, buy-backs or mergers whereby Tenant is the surviving entity, shall be deemed a Transfer hereunder. If Tenant desires Landlord's consent to any Transfer, Tenant shall provide Landlord with (i) notice of the terms of the proposed Transfer, including its proposed effective date (the "**Contemplated Effective Date**"), a description of the portion of the Premises to be transferred (the "**Contemplated Transfer Space**"), a calculation of the Transfer Premium (defined in Section 13.3), and a copy of all existing executed and/or proposed documentation effecting the proposed Transfer, and (ii) current financial statements of the proposed transferee certified by an officer or owner thereof and any other information reasonably required by Landlord in order to evaluate the proposed Transfer (collectively, the "**Transfer Notice**"). Within 30 days after receiving the Transfer Notice, Landlord shall notify Tenant of (a) its consent to the proposed Transfer, (b) its refusal to consent to the proposed Transfer or (c) its exercise of its rights under Section 13.4. If Landlord fails to so respond in writing to Tenant within said 30 day period, Tenant may send a second written notice ("**Deemed Response Notice**") to Landlord with such information and indicating that such Deemed Response Notice is being delivered pursuant to Article 13 of this Lease. Landlord's failure to withhold its consent by written notice to Tenant within five (5) business days after Landlord's receipt of a properly delivered Deemed Response Notice shall be deemed to constitute Landlord's consent to such Transfer. Any Transfer made without Landlord's prior consent shall, at Landlord's option, be void and shall, at Landlord's option, constitute a Default. Tenant shall pay Landlord a fee of \$1,500.00 for Landlord's review of any proposed Transfer, whether or not Landlord consents to it. No review fee shall be payable in connection with a Permitted

Transfer (defined in Section 13.8 below), provided Landlord is not required to modify this Lease or execute any documents in connection with such Permitted Transfer.

13.2 **Landlord's Consent.** Subject to Section 13.4, Landlord shall not unreasonably withhold its consent to any proposed Transfer. Without limitation, it shall be deemed reasonable for Landlord to withhold its consent to a proposed Transfer if (i) the proposed transferee is a governmental entity or a nonprofit organization, or is engaged in a business that is not consistent with the quality of the Building; or (ii) the proposed transferee or any of its Affiliates, on the date the Transfer Notice is received, leases or occupies (or, at any time during the 6-month period ending on the date the Transfer Notice is received, has negotiated with Landlord or an Affiliate of Landlord to lease) space in the Project, provided Landlord has suitable alternative space available in the Project. Notwithstanding any contrary provision hereof, (a) if Landlord consents to any Transfer pursuant to this Section 13.2 but Tenant does not enter into such Transfer within 6 months thereafter, such consent shall no longer apply and such Transfer shall not be permitted unless Tenant again obtains Landlord's consent thereto pursuant and subject to the terms of this Section 13; and (b) if Landlord withholds its consent in breach of this Section 13.2, Tenant's sole remedies shall be contract damages (subject to Section 19) or specific performance, and Tenant waives all other remedies, including any right to terminate this Lease.

13.3 **Transfer Premium.** If Landlord consents to a Transfer, Tenant shall pay Landlord an amount equal to 50% of any Transfer Premium (defined below). "**Transfer Premium**" means (a) in the case of an assignment, any consideration (including payment for Leasehold Improvements) paid by the assignee for such assignment, and (b) in the case of a sublease, license or other occupancy agreement, for each month of the term of such agreement, the amount by which all rent and other consideration paid by the transferee to Tenant pursuant to such agreement exceeds the Monthly Rent payable by Tenant hereunder with respect to the Contemplated Transfer Space. In any event, the Transfer Premium shall be calculated after deducting the reasonable expenses incurred by Tenant for (i) any changes, alterations and improvements to the Premises paid for by Tenant and approved by Landlord in connection with the Transfer, (ii) any other out-of-pocket monetary concessions provided by Tenant to the Transferee, and (iii) any brokerage commissions paid for by Tenant in connection with the Transfer. Payment of Landlord's share of the Transfer Premium shall be made (x) in the case of an assignment, within 10 business days after Tenant receives the consideration described above, and (y) in the case of a sublease, license or other occupancy agreement, for each month of the term of such agreement, within 10 business days after Tenant receives the rent and other consideration described above.

13.4 **Landlord's Right to Recapture.** Notwithstanding any contrary provision hereof, except in the case of a Permitted Transfer (defined in Section 13.8), in the event of an assignment of this Lease or a sublease of all or a portion of the Premises for all or substantially all of the remainder of the Term, Landlord, by notifying Tenant within 30 days after receiving the Transfer Notice, may terminate this Lease with respect to the Contemplated Transfer Space as of the Contemplated Effective Date. If the Contemplated Transfer Space is less than the entire Premises, then Base Rent, Tenant's Share, and the number of parking spaces (if any) to which Tenant is entitled under Section 1.8 shall be deemed adjusted on the basis of the percentage of the rentable area of the portion of the Premises retained by Tenant. Upon request of either party, the parties shall execute a written agreement prepared by Landlord memorializing such termination.

13.5 **Effect of Consent.** If Landlord consents to a Transfer, (i) such consent shall not be deemed a consent to any further Transfer, (ii) Tenant shall deliver to Landlord, promptly after execution, an executed copy of all documentation effecting the Transfer in form reasonably acceptable to Landlord, and (iii) Tenant shall deliver to Landlord, upon Landlord's request, a complete statement, certified by an independent CPA or Tenant's chief financial officer, setting forth in detail the computation of any Transfer Premium. In the case of an assignment, the assignee shall assume in writing, for Landlord's benefit, all of Tenant's obligations hereunder. No Transfer, with or without Landlord's consent, shall relieve Tenant or any guarantor hereof from any liability hereunder. Notwithstanding any contrary provision hereof, Tenant, with or without Landlord's consent, shall not enter into, or permit any party claiming by, through or under Tenant to enter into, any sublease, license or other occupancy agreement that provides for payment based in whole or in part on the net income or profit of the subtenant, licensee or other occupant thereunder.

13.6 **Intentionally Deleted.**

13.7 **Effect of Default.** If Tenant is in Default, Landlord is irrevocably authorized, as Tenant's agent, to direct any transferee under any sublease, license or other occupancy agreement to make all payments under such agreement directly to Landlord (which Landlord shall apply towards Tenant's obligations hereunder) until such Default is cured. However, by accepting such payments directly from the subtenant, Landlord does not waive any claims or release Tenant from any obligations hereunder, nor recognize the subtenant as the tenant hereunder. Such transferee shall rely upon any representation by Landlord that Tenant is in Default, whether or not confirmed by Tenant.

13.8 **Permitted Transfers.** "**Affiliate**" means, with respect to any party, a person or entity that controls, is under common control with, or is controlled by such party. "**Control**" means the direct or

indirect power to direct the ordinary management and policies of an entity, whether through the ownership of voting securities, by contract or otherwise. Tenant may (i) assign this Lease to a successor to Tenant by merger, consolidation, or the purchase of all or substantially all of Tenant's assets, or (ii) assign this Lease to an Affiliate, in each case without Landlord's consent, provided that all of the following conditions are satisfied (a "**Permitted Transfer**"): (a) Tenant must not be in Default; (b) Tenant must give Landlord written notice at least 5 business days before such Transfer; (c) if such Transfer will result from a merger or consolidation of Tenant with another entity, or the purchase of all or substantially all of Tenant's assets by another entity where Tenant will not be the surviving entity to the merger, then the Credit Requirement (defined below) must be satisfied; and (d) in the case of an assignment of this Lease other than pursuant to a merger or consolidation, the assignee must execute and deliver to Landlord, at least 5 business days before the assignment, a commercially reasonable instrument pursuant to which the assignee assumes, for Landlord's benefit, all of Tenant's obligations hereunder. Tenant's notice to Landlord shall include information and documentation evidencing the Permitted Transfer and showing that each of the above conditions has been satisfied. The "**Credit Requirement**" shall be deemed satisfied if, as of the date immediately succeeding the date of the Permitted Transfer, the financial strength of either (a) the entity with which Tenant is to merge or consolidate in the event of a merger or consolidation, or (b) the entity which is purchasing all or substantially all of Tenant's assets in the event of a sale of all or substantially all of Tenant's assets, is not less than that of Tenant as of the date immediately preceding the Transfer as determined (x) based on credit ratings of such entity and Tenant by both Moody's and Standard & Poor's (or by either such agency alone, if applicable ratings by the other agency do not exist), or (y) if such credit ratings do not exist, then in accordance with Moody's KMV RiskCalc (i.e., the on-line software tool offered by Moody's for analyzing credit risk) based on CFO-certified financial statements for such entity and Tenant covering their last two fiscal years ending before the Transfer.

**14 SURRENDER.** Upon the expiration or earlier termination hereof, and subject to Sections 7 and 10 and this Section 14, Tenant shall surrender possession of the Premises to Landlord in broom clean good condition and repair, except for reasonable wear and tear and repairs that are Landlord's express responsibility hereunder. Before such expiration or termination, Tenant, without expense to Landlord, shall (a) remove from the Premises all debris and rubbish and all furniture, equipment, trade fixtures, Lines, free-standing cabinet work, movable partitions and other articles of personal property that are owned or placed in the Premises by Tenant or any party claiming by, through or under Tenant (except for any Lines not required to be removed under Section 22), and (b) repair all damage to the Premises and Building resulting from such removal. If Tenant fails to timely perform such removal and repair, Landlord may do so at Tenant's expense (including storage costs). If Tenant fails to remove such property from the Premises, or from storage, within 30 days after notice from Landlord, any part of such property shall be deemed, at Landlord's option, either (x) conveyed to Landlord without compensation, or (y) abandoned.

**15 HOLDOVER.** If Tenant fails to surrender the Premises upon the expiration or earlier termination hereof, Tenant's tenancy shall be subject to the terms and conditions hereof; provided, however, that such tenancy shall be a tenancy at sufferance only, for the entire Premises, and Tenant shall pay Monthly Rent (on a per-month basis without reduction for any partial month) at a rate equal to 150% of the Monthly Rent applicable during the last calendar month of the Term. Nothing in this Section 15 shall be deemed a consent to any holdover or limit Landlord's rights or remedies. If Landlord is unable to deliver possession of the Premises to, or perform improvements for, a new tenant as a result of Tenant's holdover, and such holdover exceeds 30 days in length, Tenant shall be liable for all resulting damages, including lost profits, incurred by Landlord.

**16 SUBORDINATION; ESTOPPEL CERTIFICATES.** This Lease shall be subject and subordinate to all existing and future ground or underlying leases, mortgages, trust deeds and other encumbrances against the Building or Project, all renewals, extensions, modifications, refinancings, consolidations and replacements thereof (each, a "**Security Agreement**"), and all advances made upon the security of such mortgages or trust deeds, unless in each case the holder of such Security Agreement (each, a "**Security Holder**") requires in writing that this Lease be superior thereto. In consideration of, and as a condition precedent to, Tenant's agreement to permit its interest pursuant to this Lease to be subordinated to any particular future ground or underlying lease of the Building or the Project or to the lien of any first mortgage or trust deed, hereafter enforced against the Building or the Project and to any renewals, extensions, modifications, consolidations and replacements thereof, Landlord shall deliver to Tenant a commercially reasonable non-disturbance agreement executed by the landlord under such ground lease or underlying lease or the holder of such mortgage or trust deed, as appropriate. Upon any termination or foreclosure (or any delivery of a deed in lieu of foreclosure) of any Security Agreement, Tenant, upon request, shall attorn, without deduction or set-off, to the Security Holder or purchaser or any successor thereto and shall recognize such party as the lessor hereunder provided that such party agrees not to disturb Tenant's occupancy so long as Tenant timely pays the Rent and otherwise performs its obligations hereunder. Within 10 business days after Landlord's request, Tenant shall execute such further commercially reasonable instruments as Landlord or any Security Holder may reasonably deem necessary to evidence the subordination or superiority of this Lease to any Security Agreement. Tenant waives any right it may have under Law to terminate or otherwise adversely affect this Lease or Tenant's obligations hereunder upon a foreclosure. Within 10 business days after Landlord's request, Tenant shall execute and

deliver to Landlord a commercially reasonable estoppel certificate in favor of such parties as Landlord may reasonably designate, including current and prospective Security Holders and prospective purchasers.

**17 ENTRY BY LANDLORD.** At all reasonable times and upon reasonable prior written notice to Tenant, or in an emergency, Landlord may enter the Premises to (i) inspect the Premises; (ii) show the Premises to prospective purchasers, current or prospective Security Holders or insurers, or, during the last 12 months of the Term (or while an uncured Default exists), prospective tenants; (iii) post notices of non-responsibility; or (iv) perform maintenance, repairs or alterations. Notwithstanding the foregoing, at any time and without notice to Tenant, Landlord may enter the Premises to perform janitorial or other required services. If reasonably necessary, Landlord may temporarily close any portion of the Premises to perform maintenance, repairs or alterations. In an emergency, Landlord may use any means it deems proper to open doors to and in the Premises. Except in an emergency, Landlord shall use reasonable efforts (except Landlord shall not be obligated to pay overtime rates for which Tenant does not agree to reimburse Landlord) to minimize interference with Tenant's use of the Premises. Landlord shall also use reasonable efforts to comply with Tenant's reasonable security procedures for which Landlord has prior notice. No entry into or closure of any portion of the Premises pursuant to this Section 17 shall render Landlord liable to Tenant, constitute a constructive eviction, or excuse Tenant from any obligation hereunder.

**18 DEFAULTS; REMEDIES.**

18.1 **Events of Default.** The occurrence of any of the following shall constitute a "Default":

18.1.1 Any failure by Tenant to pay any Rent (or deliver any security deposit, letter of credit, or similar credit enhancement required hereunder) when due unless such failure is cured within 5 business days after notice; or

18.1.2 Except where a specific time period is otherwise set forth for Tenant's cure herein (in which event Tenant's failure to cure within such time period shall be a Default), and except as otherwise provided in this Section 18.1, any breach by Tenant of any other provision hereof where such breach continues for 30 days after notice from Landlord; provided that if such breach cannot reasonably be cured within such 30-day period, Tenant shall not be in Default as a result of such breach if Tenant diligently commences such cure within such period, thereafter diligently pursues such cure, and completes such cure within 90 days after Landlord's notice; or

18.1.3 Any breach by Tenant of Section 16 or 17 where such breach continues for more than 2 business days after written notice from Landlord; or

18.1.4 Tenant becomes in breach of Section 23.3(c) or (d).

The notice periods provided herein are in lieu of, and not in addition to, any notice periods provided by Law, and Landlord shall not be required to give any additional notice in order to be entitled to commence an unlawful detainer proceeding.

18.2 **Remedies Upon Default.** Upon any Default, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity (which shall be cumulative and nonexclusive), the option to pursue any one or more of the following remedies (which shall be cumulative and nonexclusive) without any notice or demand:

18.2.1 Landlord may terminate this Lease, in which case Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy it may have for possession or arrearages in Rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim of damages therefor; and Landlord may recover from Tenant the following:

(a) The worth at the time of award of the unpaid Rent which had been earned at the time of such termination;  
plus

(b) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(c) The worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such Rent loss that Tenant proves could be reasonably avoided; plus

(d) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations hereunder or which in the ordinary course

of things would be likely to result therefrom, including brokerage commissions, advertising expenses, expenses of remodeling any portion of the Premises for a new tenant (whether for the same or a different use), and any special concessions made to obtain a new tenant; plus

(e) At Landlord's option, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by Law.

As used in Sections (a) and (b), the "**worth at the time of award**" shall be computed by allowing interest at a rate per annum equal to the lesser of (i) the annual "**Bank Prime Loan**" rate cited in the Federal Reserve Statistical Release Publication G.13(415), published on the first Tuesday of each calendar month (or such other comparable index as Landlord shall reasonably designate if such rate ceases to be published) plus two (2) percentage points, or (ii) the highest rate permitted by Law. As used in Section (c), the "**worth at the time of award**" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1%.

18.2.2 Landlord shall have the remedy described in California Civil Code § 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover Rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). Accordingly, if Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies hereunder, including the right to recover all Rent as it becomes due.

18.2.3 Landlord shall at all times have the rights and remedies (which shall be cumulative with each other and cumulative and in addition to those rights and remedies available under Sections 18.2.1 and 18.2.2, or any Law or other provision hereof), without prior demand or notice except as required by Law, to seek any declaratory, injunctive or other equitable relief, and specifically enforce this Lease, or restrain or enjoin a violation or breach of any provision hereof.

18.2.4 If Tenant is in Default of any of its non-monetary obligations under this Lease, Landlord shall have the right to perform such obligations. Tenant shall reimburse Landlord for the cost of such performance upon demand together with an administrative charge equal to 10% of the cost of the work performed by Landlord. The repossession or re-entering of all or any part of the Premises shall not relieve Tenant of its liabilities and obligations under this Lease. No right or remedy of Landlord shall be exclusive of any other right or remedy. Each right and remedy shall be cumulative and in addition to any other right and remedy now or subsequently available to Landlord at Law or in equity.

18.3 **Efforts to Relet.** Unless Landlord provides Tenant with express notice to the contrary, no re-entry, repossession, repair, maintenance, change, alteration, addition, reletting, appointment of a receiver or other action or omission by Landlord shall (a) be construed as an election by Landlord to terminate this Lease or Tenant's right to possession, or to accept a surrender of the Premises, or (b) operate to release Tenant from any of its obligations hereunder. Tenant waives, for Tenant and for all those claiming by, through or under Tenant, California Civil Code § 3275, California Code of Civil Procedure §§ 1174(c) and 1179, and any existing or future rights to redeem or reinstate, by order or judgment of any court or by any legal process or writ, this Lease or Tenant's right of occupancy of the Premises after any termination hereof.

**19 LANDLORD EXCULPATION.** Notwithstanding any contrary provision hereof, (a) Tenant shall look solely to Landlord's interest in the Building for the recovery of any judgment or award against any Landlord Party; (b) no Landlord Party shall have any personal liability for any judgment or deficiency, and Tenant waives and releases such personal liability on behalf of itself and all parties claiming by, through or under Tenant; and (c) no Landlord Party shall be liable for any loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, or for any form of special, indirect or consequential damages.

**20 SECURITY DEPOSIT.** Concurrently with its execution and delivery hereof, Tenant shall deposit with Landlord the Security Deposit, if any, as security for Tenant's performance of its obligations hereunder. Upon and during a Default hereunder, Landlord may, at its option, without limiting its remedies and without notice to Tenant, apply all or part of the Security Deposit to cure such Default and compensate Landlord for any loss or damage caused by such Default, including any loss of rent that would have accrued after the date of termination, including any damage for which recovery may be made under California Civil Code § 1951.2. If Landlord so applies any portion of the Security Deposit, Tenant, within 3 days after demand therefor, shall restore the Security Deposit to its original amount. The Security Deposit is not an advance payment of Rent or measure of damages. Any unapplied portion of the Security Deposit shall be returned to Tenant within 30 days after the latest to occur of (a) the expiration of the Term, (b) Tenant's surrender of the Premises as required hereunder, or (c) determination of the final Rent due from Tenant; provided, however, that Tenant hereby authorizes Landlord to withhold from the Security Deposit all amounts allowed by Law and any amount reasonably anticipated by Landlord to be owed by Tenant under Section 4.1 of Exhibit B with respect to the final Expense Year. Landlord shall not be required to keep the Security Deposit separate from its other accounts or pay interest on the Security Deposit. To the fullest

extent permitted by applicable Law, Tenant agrees that the provisions of this Section 20 shall supersede and replace all statutory rights of Tenant under applicable Law regarding the retention, application or return of security deposits.

## 21 INTENTIONALLY DELETED.

22 **COMMUNICATIONS AND COMPUTER LINES.** All Lines installed pursuant to this Lease shall be (a) installed in accordance with Section 6 and (b) clearly marked with adhesive plastic labels (or plastic tags attached to such Lines with wire) to show Tenant's name, suite number, and the purpose of such Lines (i) every 6 feet outside the Premises (including the electrical room risers and any Common Areas), and (ii) at their termination points. Sufficient spare cables and space for additional cables shall be maintained for other occupants, as reasonably determined by Landlord. Unless otherwise notified by Landlord at least 30 days prior to the expiration of the Term, Tenant, at its expense and before the expiration or earlier termination hereof, shall remove all Lines and repair any resulting damage. "Lines" means all communications or computer wires and cables serving the Premises, whenever and by whomever installed or paid for, including any wires or cables installed pursuant to any prior lease.

## 23 MISCELLANEOUS.

23.1 **Notices.** No notice, demand, statement, designation, request, consent, approval, election or other communication given hereunder ("**Notice**") shall be binding upon either party unless (a) it is in writing; (b) it is (i) sent by certified or registered mail, postage prepaid, return receipt requested, (ii) delivered by a nationally recognized courier service, or (iii) delivered personally; and (c) it is sent or delivered to the address set forth in Section 1.9 or 1.10, as applicable, or to such other place (other than a P.O. box) as the recipient may from time to time designate in a Notice to the other party. Any Notice shall be deemed received on the earlier of the date of actual delivery or the date on which delivery is refused, or, if Tenant is the recipient and has vacated its notice address without providing a new notice address, 3 days after the date the Notice is deposited in the U.S. mail or with a courier service as described above. No provision of this Lease requiring a particular Notice to be in writing shall limit the generality of clause (a) of the first sentence of this Section 23.1. In addition, if the Building is closed, then notices sent during such closure may be sent via e-mail or in any other practical manner reasonably designed to ensure receipt by the intended recipient.

23.2 **Force Majeure.** If either party is prevented from performing any obligation hereunder by any strike, act of God, war, terrorist act, shortage of labor or materials, governmental action, civil commotion, pandemic or other cause beyond such party's reasonable control ("**Force Majeure**"), such obligation shall be excused during (and any time period for the performance of such obligation shall be extended by) the period of such prevention; provided, however, that this Section 23.2 shall not (a) permit Tenant to hold over in the Premises after the expiration or earlier termination hereof, or (b) excuse (or extend any time period for the performance of) (i) any obligation to remit money or deliver credit enhancement, or (ii) any obligation under Section 9 or 23.3

23.3 **Representations and Covenants.** Tenant represents, warrants and covenants that (a) Tenant is, and at all times during the Term will remain, duly organized, validly existing and in good standing under the Laws of the state of its formation and qualified to do business in the state or commonwealth in which the Building is located; (b) neither Tenant's execution of nor its performance under this Lease will cause Tenant to be in violation of any agreement or Law; (c) Tenant (and any guarantor hereof) has not, and at no time during the Term will have, (i) made a general assignment for the benefit of creditors, (ii) filed a voluntary petition in bankruptcy or otherwise sought relief with respect to its debts under any Law relating to bankruptcy or insolvency, (iii) suffered or sought the appointment of a receiver or other similar official to take possession of all or substantially all of its assets, (iv) suffered (A) the filing by creditors of an involuntary petition in bankruptcy that is not dismissed within 30 days, or (B) the attachment or other judicial seizure of all or substantially all of its assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally; and (d) no party that (other than through the passive ownership of interests traded on a recognized securities exchange) constitutes, owns, controls, or is owned or controlled by Tenant, any guarantor hereof or any subtenant of Tenant, is or at any time during the Term will be, (i) in violation of any Laws relating to terrorism or money laundering, or (ii) among the parties identified on any list compiled pursuant to Executive Order 13224 for the purpose of identifying suspected terrorists or on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx> or any replacement website or other replacement official publication of such list.

23.4 **Signs.** Landlord shall include Tenant's name in any tenant directory located in the lobby on the first floor of the Building. If any part of the Premises is located on a multi-tenant floor, Landlord, at Tenant's cost, shall provide identifying suite signage for Tenant comparable to that provided by Landlord on similar floors in the Building. Tenant may not install (a) any signs outside the Premises, or (b) without Landlord's prior consent in its sole and absolute discretion, any signs, window coverings, blinds or similar

items that are visible from outside the Premises. Notwithstanding the foregoing, subject to this Section 23.4, Tenant shall be entitled to install, at its sole cost and expense, one (1) building top sign on the side of the Building facing south (“**Signage**”). The graphics, materials, size, color, design, lettering, lighting (if any), specifications and exact location of the Signage (collectively, the “**Signage Specifications**”) shall be subject to the prior written approval of Landlord, which approval shall not be unreasonably withheld. In addition, the Signage and all Signage Specifications therefore shall be subject to Tenant’s receipt of all required governmental permits and approvals, shall be subject to all applicable governmental laws and ordinances, and all covenants, conditions and restrictions affecting the Building. Tenant hereby acknowledges that, notwithstanding Landlord’s approval of the Signage and/or the Signage Specifications therefor, Landlord has made no representations or warranty to Tenant with respect to the probability of obtaining such approvals and permits. In the event Tenant does not receive the necessary permits and approvals for the Signage, Tenant’s and Landlord’s rights and obligations under the remaining provisions of this Lease shall not be affected. The cost of installation of the Signage, as well as all costs of design and construction of such Signage and all other costs associated with such Signage, including, without limitation, permits, maintenance and repair, shall be the sole responsibility of Tenant. Notwithstanding anything to the contrary contained herein, in the event that at any time during the Term of this Lease (or any Option Term, if applicable), Tenant fails to occupy at least 75% of the Premises, Tenant’s right to the Signage shall thereupon terminate and Tenant shall remove such Signage as provided in this Section 23.4 below. The rights to the Signage shall be personal to the originally named Tenant and an assignee under a Permitted Transfer, and may not be otherwise transferred. Should the Signage require maintenance or repairs as determined in Landlord’s reasonable judgment, Landlord shall have the right to provide written notice thereof to Tenant and Tenant shall cause such repairs and/or maintenance to be performed within thirty (30) days after receipt of such notice from Landlord at Tenant’s sole cost and expense. Should Tenant fail to perform such maintenance and repairs within the period described in the immediately preceding sentence, Landlord shall have the right to cause such work to be performed and to charge Tenant, as Additional Rent, for the cost of such work. Upon the expiration or earlier termination of this Lease (or the termination of Tenant’s Signage right as described above), Tenant shall, at Tenant’s sole cost and expense, cause the Signage to be removed from the exterior of the Building and shall cause the exterior of the Building to be restored to the condition existing prior to the placement of such Signage. If Tenant fails to remove such Signage and to restore the exterior of the Building as provided in the immediately preceding sentence within thirty (30) days following the expiration or earlier termination of this Lease (or the termination of Tenant’s Signage as provided above), then Landlord may perform such work, and all costs and expenses incurred by Landlord in so performing such work shall be reimbursed by Tenant to Landlord within ten (10) days after Tenant’s receipt of invoice therefor. The immediately preceding sentence shall survive the expiration or earlier termination of this Lease.

23.5 **Supplemental HVAC.** If the Premises are served by any supplemental HVAC unit (a “**Unit**”), then (a) Tenant shall pay the costs of all electricity consumed in the Unit’s operation, together with the cost of installing a meter to measure such consumption; (b) Tenant, at its expense, shall (i) operate and maintain the Unit in compliance with all applicable Laws and such reasonable rules and procedures as Landlord may impose; and (ii) keep the Unit in as good working order and condition as existed upon installation (or, if later, when Tenant took possession of the Premises), subject to normal wear and tear and damage resulting from Casualty; (c) the Unit shall become Landlord’s property upon installation and without compensation to Tenant; provided, however, that upon Landlord’s request at the expiration or earlier termination hereof, Tenant, at its expense, shall remove the Unit and repair any resulting damage (and if Tenant fails to timely perform such work, Landlord may do so at Tenant’s expense); (d) the Unit shall be deemed (i) a Leasehold Improvement (except for purposes of Section 7), and (ii) for purposes of Section 10, part of the Premises; (e) if the Unit exists on the date of mutual execution and delivery hereof, Tenant accepts the Unit in its “as is” condition, without representation or warranty as to quality, condition, fitness for use or any other matter; (f) if the Unit connects to the Building’s condenser water loop (if any), then Tenant shall pay to Landlord, as Additional Rent, Landlord’s standard one-time fee for such connection and Landlord’s standard monthly per-ton usage fee; and (g) if any portion of the Unit is located on the roof, then (i) Tenant’s access to the roof shall be subject to such reasonable rules and procedures as Landlord may impose; (ii) Tenant shall maintain the affected portion of the roof in a clean and orderly condition and shall not interfere with use of the roof by Landlord or any other tenants or licensees; and (iii) Landlord may relocate the Unit and/or temporarily interrupt its operation, without liability to Tenant, as reasonably necessary to maintain and repair the roof or otherwise operate the Building.

23.6 **Attorneys’ Fees.** In any action or proceeding between the parties, including any appellate or alternative dispute resolution proceeding, the prevailing party may recover from the other party all of its costs and expenses in connection therewith, including reasonable attorneys’ fees and costs. Tenant shall pay all reasonable attorneys’ fees and other fees and costs that Landlord incurs in protecting its rights hereunder in any bankruptcy case, assignment for the benefit of creditors, or other insolvency, liquidation or reorganization proceeding involving Tenant or this Lease.

23.7 **Brokers.** Tenant represents to Landlord that it has dealt only with Tenant’s Broker as its broker, agent or finder in connection with this Lease. Tenant shall indemnify, defend, and hold the Landlord Parties harmless from all claims of any brokers, agents or finders other than Tenant’s Broker, claiming to have

represented Tenant in connection with this Lease. Landlord shall indemnify, defend and hold Tenant harmless from all claims of any brokers, agents or finders, including Landlord's Broker, claiming to have represented Landlord in connection with this Lease. Tenant acknowledges that any Affiliate of Landlord that is involved in the negotiation of this Lease is representing only Landlord, and that any assistance rendered by any agent or employee of such Affiliate in connection with this Lease or any subsequent amendment or other document related hereto has been or will be rendered as an accommodation to Tenant solely in furtherance of consummating the transaction on behalf of Landlord, and not as agent for Tenant.

23.8 **Governing Law; WAIVER OF TRIAL BY JURY.** This Lease shall be construed and enforced in accordance with the Laws of the state or commonwealth in which the Building is located and Landlord and Tenant hereby irrevocably consent to the jurisdiction and proper venue of such state or commonwealth. THE PARTIES WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF OR RELATING TO THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, AND/OR ANY CLAIM FOR INJURY OR DAMAGE OR ANY EMERGENCY OR STATUTORY REMEDY.

23.9 **Interpretation.** The capitalized term "Section" refers to a section hereof unless otherwise specifically provided herein. As used in this Lease, the terms "herein," "hereof," "hereto" and "hereunder" refer to this Lease and the term "include" and its derivatives are not limiting. Any reference herein to "any part" or "any portion" of the Premises, the Property or any other property shall be construed to refer to all or any part of such property. In connection with insurance, the term "deductible" includes self-insured retention. Wherever this Lease requires Landlord to act in a reasonable manner (whether in incurring an expense, establishing a rule or regulation, providing an approval or consent, or performing any other act), the reasonableness of such act shall be determined by reference to the practices of owners of buildings ("**Comparable Buildings**") that (i) are comparable to the Building in size, age, class, quality and location, and (ii) at Landlord's option, have been, or are being prepared to be, certified under the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system or a similar rating system. Wherever this Lease prohibits either party from engaging in any particular conduct, this Lease shall be deemed also to require such party to cause each of its employees and agents (and, in the case of Tenant, each of its licensees, invitees and subtenants, and any other party claiming by, through or under Tenant) to refrain from engaging in such conduct. Tenant waives the benefit of any rule that a written agreement shall be construed against the drafting party.

23.10 **Entire Agreement.** This Lease sets forth the entire agreement between the parties relating to the subject matter hereof and supersedes any previous agreements (none of which shall be used to interpret this Lease). Tenant acknowledges that in entering into this Lease it has not relied upon any representation, warranty or statement, whether oral or written, not expressly set forth herein. This Lease can be modified only by a written agreement signed by both parties.

23.11 **Unrelated Business Income.** If Landlord is advised by its counsel at any time that any part of the payments by Tenant to Landlord under this Lease may be characterized as unrelated business income under the United States Internal Revenue Code and its regulations, then Tenant shall enter into any amendment proposed by Landlord to avoid such income, so long as the amendment does not require Tenant to make more payments or accept fewer services from Landlord, than this Lease provides.

23.12 **Financial Statements.** At Landlord's request from time to time in connection with any potential sale or financing of the Building, Tenant shall provide to Landlord the then current financial statements of Tenant and any guarantor hereof and such other information regarding the financial condition of Tenant and any such guarantor as Landlord may reasonably request; provided that, for so long as Tenant's equity is traded on a United States public stock exchange, Tenant may fulfill the foregoing requirement by providing Landlord with Tenant's quarterly and annual reports filed publicly pursuant to applicable Laws.

23.13 **Other.** If any provision hereof is void or unenforceable, no other provision shall be affected. Submission of this instrument for examination or signature by Tenant does not constitute an option or offer to lease. If Tenant is comprised of two or more persons or entities, then (a) their obligations shall be joint and several, (b) any request or demand from any one such person or entity shall be deemed to have been made by all such persons or entities; and (c) any notice given to any one such person or entity shall be deemed to have been given to all such persons or entities. Time is of the essence with respect to the payment of Rent and Tenant's exercise of any expansion, renewal or extension rights granted to Tenant. So long as Tenant performs its obligations hereunder, Tenant shall have peaceful and quiet possession of the Premises against any party claiming by, through or under Landlord, subject to the terms hereof. This covenant shall be binding upon Landlord and its successors only during its or their respective periods of ownership of the Building. Landlord may transfer its interest herein, in which event (a) to the extent the transferee assumes in writing Landlord's obligations arising hereunder after the date of such transfer (including the return of any Security Deposit), Landlord shall be released from, and Tenant shall look solely to the transferee for the performance of, such obligations; and (b) Tenant shall attorn to the transferee. Landlord reserves all rights not expressly granted to Tenant hereunder, including the right to

make alterations to the Project. No rights to any view or to light or air over any property are granted to Tenant hereunder. The expiration or earlier termination hereof shall not relieve either party of any obligation that accrued before, or continues to accrue after, such expiration or termination. To the extent permitted by applicable Law, this Lease may be executed in counterparts and/or executed and/or transmitted by electronic means.

23.14            **Waiver of Statutory Provisions.** Each party waives California Civil Code §§ 1932(2), 1933(4) and 1945. Tenant waives (a) any rights under (i) California Civil Code §§ 1932(1), 1941, 1942, 1950.7 or any similar Law, or (ii) California Code of Civil Procedure §§ 1263.260 or 1265.130; and (b) any right to terminate this Lease under California Civil Code § 1995.310.

23.15            **Tax Waiver.** Tenant waives all rights pursuant to all Laws to contest any taxes or other levies or protest appraised values or receive notice of reappraisal regarding the Property (including Landlord's personalty), irrespective of whether Landlord contests same.

**[SIGNATURES ARE ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed the day and date first above written.

LANDLORD:

**BRE CA OFFICE OWNER LLC, a Delaware limited liability company**

By: /s/ Spencer Rose

Name: Spencer Rose

Title: Managing Director

TENANT:

**KURA ONCOLOGY, INC., a Delaware corporation**

By: /s/ Marc Grasso

Name: Marc Grasso

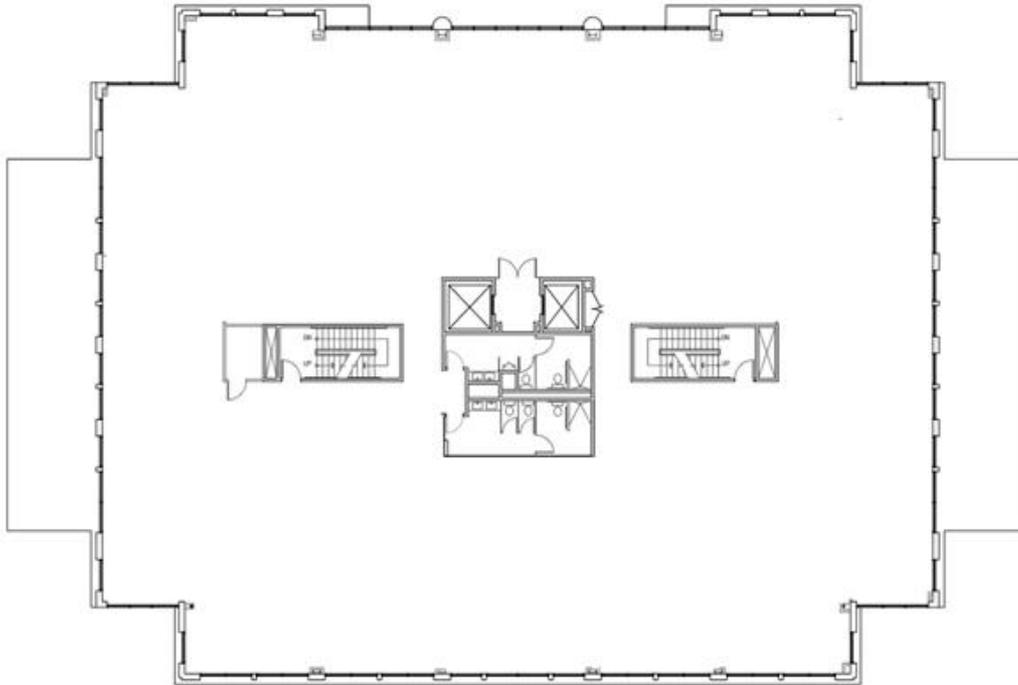
Title: CFO and CBO

**EXHIBIT A**

**HIGHLANDS CORPORATE CENTER SOUTH PLAZA**

**OUTLINE OF PREMISES**

See Attached



**RBN DESIGN**  
COMMERCIAL INTERIORS  
619-297-1011 RBNDESIGN.com

**Fourth Floor**  
Highlands Corporate Center  
12730 High Bluff Drive  
San Diego, CA 92130

**MARKETING PLAN**  
November 7, 2017  
Scaled to Fit

**EXHIBIT B**

**HIGHLANDS CORPORATE CENTER SOUTH PLAZA**

**EXPENSES AND TAXES**

**1      General Terms.**

In addition to Base Rent, Tenant shall pay, in accordance with Section 4 below, for each Expense Year (defined in Section 2.1 below), an amount equal to the sum of (a) Tenant's Share of any amount (the "Expense Excess") by which Expenses for such Expense Year exceed Expenses for the Base Year, plus (b) Tenant's Share of any amount (the "Tax Excess") by which Taxes for such Expense Year exceed Taxes for the Base Year. No decrease in Expenses or Taxes for any Expense Year below the corresponding amount for the Base Year shall entitle Tenant to any decrease in Base Rent or any credit against amounts due hereunder. Tenant's Share of the Expense Excess and Tenant's Share of the Tax Excess for any partial Expense Year shall be prorated based on the number of days in such Expense Year.

**2      Definitions.**

2.1      **"Expense Year"** means each calendar year (other than the Base Year and any preceding calendar year) in which any portion of the Term occurs.

2.2      **"Expenses"** means all expenses, costs and amounts that Landlord pays or accrues during the Base Year or any Expense Year because of or in connection with the management, maintenance, security, repair, replacement, restoration or operation of the Property, as determined in accordance with sound property management accounting principles, consistently applied. Landlord shall act in a reasonable manner in incurring Expenses. Expenses shall include (i) the cost of supplying all utilities (and taxes and surcharges thereon), the cost of operating, repairing, maintaining and renovating the utility, telephone, mechanical, sanitary, storm-drainage, and elevator systems, and the cost of maintenance and service contracts in connection therewith; (ii) the cost of licenses, certificates, permits and inspections, the cost of contesting any Laws that may affect Expenses, and the costs of complying with any business improvement district, governmentally-mandated transportation-management or similar program; (iii) the cost of all insurance premiums and deductibles; (iv) the cost of landscaping and relamping and the cost of painting and/or decorating all areas of the Building not demised to tenants; (v) the cost of parking-area operation, repair, restoration, and maintenance; (vi) a management fee in the amount (which is hereby acknowledged to be reasonable) of 3% of gross annual receipts from the Building (excluding the management fee), together with other reasonable fees and costs, including consulting fees, legal fees and accounting fees, of all contractors and consultants in connection with the management, operation, maintenance and repair of the Property; (vii) the fair rental value of any management office space and the cost of equipping, staffing and operating an on-site and/or off-site management office for the Building; (viii) wages, salaries and other compensation, expenses and benefits, including taxes levied thereon, of all persons engaged in the operation, maintenance and security of the Property, and costs of training and uniforms for such persons; (ix) the costs of operation, repair, maintenance and replacement of all systems and equipment (and components thereof) of the Property; (x) the cost of janitorial, alarm, security and other services, replacement of wall and floor coverings, ceiling tiles and fixtures in Common Areas, maintenance and replacement of curbs and walkways, repair to roofs and re-roofing; (xi) the cost of services generally provided to or made available to all tenants at the Building; (xii) rental or acquisition costs (including taxes thereon) of supplies, tools, equipment, materials and personal property used in the maintenance, operation and repair of the Property; (xiii) all capital expenditures that are (A) intended to reduce current or future Expenses, to the extent of the reasonably anticipated cost savings, enhance the safety or security of the Property or its occupants, or (B) required under any Law first enacted after the date of this Lease; and (xiv) payments under any existing or future reciprocal easement agreement, transportation management agreement, cost-sharing agreement or other covenant, condition, restriction or similar instrument affecting the Property.

Notwithstanding the foregoing, Expenses shall not include:

- (1) capital expenditures not described in clauses (xii) or (xiii) above (in addition, any capital expenditure shall be amortized including actual or imputed interest on the amortized cost over the reasonable useful life of the improvement);
- (2) depreciation;
- (3) payments of mortgage or other non-operating debts of Landlord;
- (4) costs of repairs to the extent Landlord is reimbursed by insurance or condemnation proceeds;
- (5) costs of leasing space in the Building, including brokerage commissions, lease concessions, rental abatements and construction allowances granted to specific tenants;
- (6) costs of selling, financing or refinancing the Building;

- (7) fines, penalties or interest resulting from late payment of Taxes or Expenses;
- (8) organizational expenses of creating or operating the entity that constitutes Landlord;
- (9) damages paid to Tenant hereunder or to other tenants of the Building under their respective leases
- (10) costs of leasing commissions, attorneys' fees and other costs and expenses incurred in connection with negotiations or disputes with present or prospective tenants or other occupants of the Building;
- (11) costs of any compensation and employee benefits paid to clerks, attendants or other persons in a commercial concession operated by Landlord;
- (12) marketing costs, legal fees, space planner's fees, and advertising and promotional expenses and brokerage fees incurred in connection with the original development, subsequent improvement, or original or future leasing of the Building;
- (13) any bad debt loss, rent loss, or reserves for bad debts or rent loss;
- (14) the wages and benefits of any employee who does not devote substantially all of his or her employed time to the Building unless such wages and benefits are prorated to reflect time spent on operating and managing the Building vis-à-vis time spent on matters unrelated to operating and managing the Building; provided, that in no event shall Expenses for purposes of this Lease include wages and/or benefits attributable to personnel above the level of Portfolio Manager or Building engineer;

Building unless such wages and benefits are prorated to reflect time spent on operating and managing the Building vis-à-vis time spent on matters unrelated to operating and managing the Building; provided, that in no event shall Expenses for purposes of this Lease include wages and/or benefits attributable to personnel above the level of Portfolio Manager or Building engineer;

- (15) costs incurred to comply with laws relating to hazardous material, which was in existence in the Building prior to the Commencement Date, and was of such a nature that a federal, State or municipal governmental authority, if it had then had knowledge of the presence of such hazardous material, in the state, and under the conditions that it then existed in the Building, would have then required the removal of such hazardous material or other remedial or containment action with respect thereto; and

- (16) costs, including legal fees, space planners' fees, advertising and promotional expenses (except as otherwise set forth above), and brokerage fees incurred in connection with the original construction or development, or original or future leasing of the Project, in connection with any major renovation or major change in the Project such as, but not limited to, adding or deleting floors or other material expansion of rentable area of the Project or the Building or any material expansion of the parking area serving the Project, and costs, including permit, license and inspection costs, incurred with respect to the installation of tenant improvements made for tenants occupying space in the Project or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space for tenants or other occupants of the Project.

If, during any portion of the Base Year or any Expense Year, the Building is less than 95% occupied (or a service provided by Landlord to Tenant is not provided by Landlord to a tenant that provides such service itself, or any tenant of the Building is entitled to free rent, rent abatement or the like), with the result that Expenses for such year are less than what they would have been if the Building had been 95% occupied (and all services provided by Landlord to Tenant had been provided by Landlord to all tenants, and no tenant of the Building had been entitled to free rent, rent abatement or the like) throughout such year (the "95% Amount"), then Expenses for such year shall be deemed to be the 95% Amount. Notwithstanding any contrary provision hereof, Expenses for the Base Year shall include any market-wide cost increases resulting from extraordinary circumstances, including Force Majeure (defined in Section 23.2 of the Lease), boycotts, strikes, conservation surcharges, embargoes or shortages; provided, however, that at such time as any such particular assessments, charges, costs or fees are no longer included in Operating Expenses, such particular assessments, charges, costs or fees shall be excluded from the Base Year calculation of Operating Expenses. Notwithstanding the foregoing, for purposes of computing Tenant's Share of Expenses, the Controllable Expenses (hereinafter defined) shall not increase by more than 5% per Expense Year on a compounding and cumulative basis over the course of the Term. In other words, Controllable Expenses for the first Expense Year after the Base Year shall not exceed 105% of the Controllable Expenses for the Base Year. Controllable Expenses for the second Expense Year after the Base Year shall not exceed 105% of the limit on Controllable Expenses for the first Expense Year after the Base Year, etc. By way of illustration, if Controllable Expenses were \$10.00 per rentable square foot for the Base Year, then Controllable Expenses for the first Expense Year following the Base Year shall not exceed \$10.50 per rentable square foot, and Controllable Expenses for the second Expense Year following the Base Year shall not exceed \$11.03 per rentable square foot. Any Controllable Expenses that are not included as part of Expenses during any Expense Year due to the application of this cap may be included as part of Controllable Expenses in any subsequent Expense Year subject to the cap applicable to the calculation of Controllable Expenses for such subsequent Expense Year.

2.3 "Taxes" means all federal, state, county or local governmental or municipal taxes, fees, charges, assessments, levies, licenses or other impositions, whether general, special, ordinary or extraordinary, that are paid or accrued during the Base Year or any Expense Year (without regard to any different fiscal year used by such governmental or municipal authority) because of or in connection with the ownership, leasing or operation of the Property. Taxes shall include (a) real estate taxes; (b) general and special assessments; (c) transit taxes; (d) leasehold taxes; (e) personal property taxes imposed upon the fixtures, machinery, equipment, apparatus, systems, appurtenances, furniture and other personal property used in connection with the Property; (f) any tax on the rent, right to rent or other income from any portion of the Property or as against the business of leasing any portion of the Property; (g) any assessment, tax,

fee, levy or charge imposed by any governmental agency, or by any non-governmental entity pursuant to any private cost-sharing agreement, in order to fund the provision or enhancement of any fire-protection, street-, sidewalk- or road-maintenance, refuse-removal or other service that is (or, before the enactment of Proposition 13, was) normally provided by governmental agencies to property owners or occupants without charge (other than through real property taxes); and (h) payments in lieu of taxes under any tax increment financing agreement, abatement agreement, agreement to construct improvements, or other agreement with any governmental body or agency or taxing authority. Any costs and expenses (including reasonable attorneys' and consultants' fees) incurred in attempting to protest, reduce or minimize Taxes shall be included in Taxes for the year in which they are incurred. Notwithstanding any contrary provision hereof, Taxes shall be determined without regard to any "green building" credit and shall exclude (i) all excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, transfer taxes, estate taxes, federal and state income taxes, and other taxes to the extent (x) applicable to Landlord's general or net income (as opposed to rents, receipts or income attributable to operations at the Property), or (y) measured solely by the square footage, rent, fees, services, tenant allowances or similar amounts, rights or obligations described or provided in or under any particular lease, license or similar agreement or transaction at the Building; (ii) any Expenses; (iii) any items required to be paid or reimbursed by Tenant under Section 5 below; (iv) fines, penalties or interest resulting from late payment of Taxes.

2.4 "Controllable Expenses" shall mean all Expenses other than (i) costs of utilities, (ii) the cost of repairs and restoration due to hurricanes and other weather-related causes, (iii) insurance premiums and deductibles, (iv) capital expenditures under subsection 2.2(viii)(B) and subject to subsection 2.2(1), (v) any market-wide cost increases resulting from extraordinary circumstances, including Force Majeure, boycotts, strikes, conservation surcharges, embargoes or shortages, (vi) other Expenses to the extent: (a) that a component of such Expenses are union labor wages (including labor that is unionized after the date hereof), or (b) such Expenses are incurred as a result of any requirements of Law.

### 3 Allocation.

Landlord, in its reasonable discretion, may equitably allocate Expenses among office, retail or other portions or occupants of the Property. If Landlord incurs Expenses or Taxes for the Property together with another property, Landlord, in its reasonable discretion, shall equitably allocate such shared amounts between the Property and such other property.

### 4 Calculation and Payment of Expense Excess and Tax Excess.

#### 4.1 Statement of Actual Expenses and Taxes; Payment by Tenant.

Landlord shall give to Tenant, by August 1 of each year after the end of each Expense Year, a statement (the "Statement") setting forth the actual Expenses, Taxes, Expense Excess and Tax Excess for such Expense Year. If the amount paid by Tenant for such Expense Year pursuant to Section 4.2 is less or more than the sum of Tenant's Share of the actual Expense Excess plus Tenant's Share of the actual Tax Excess (as such amounts are set forth in such Statement), Tenant shall pay Landlord the amount of such underpayment, or receive a credit in the amount of such overpayment, with or against the Rent next coming due hereunder; provided, however, that if this Lease has expired or terminated and Tenant has vacated the Premises, Tenant shall pay Landlord the amount of such underpayment, or Landlord shall pay Tenant the amount of such overpayment (less any Rent due), within 30 days after delivery of such Statement. Any failure of Landlord to timely deliver the Statement for any Expense Year shall not diminish either party's rights under this Exhibit; provided that Tenant shall not be responsible for payment of any Expenses (other than Taxes) first shown on a Statement delivered more than 18 months after the applicable Expense Year in which it was incurred.

#### 4.2 Statement of Estimated Expenses and Taxes.

Landlord shall give to Tenant, for each Expense Year, a statement (the "Estimate Statement") setting forth Landlord's reasonable estimates of the Expenses, Taxes, Expense Excess and Tax Excess ( the "Estimated Expense Excess") and Tax Excess (the "Estimated Tax Excess") for such Expense Year. Upon receiving an Estimate Statement, Tenant shall pay, with its next installment of Base Rent, an amount equal to the excess of (a) the amount obtained by multiplying (i) the sum of Tenant's Share of the Estimated Expense Excess plus Tenant's Share of the Estimated Tax Excess (as such amounts are set forth in such Estimate Statement), by (ii) a fraction, the numerator of which is the number of months that have elapsed in the applicable Expense Year (including the month of such payment) and the denominator of which is 12, over (b) any amount previously paid by Tenant for such Expense Year pursuant to this Section 4.2. Until Landlord delivers a new Estimate Statement (which Landlord may do at any time), Tenant shall pay monthly, with the monthly Base Rent installments, an amount equal to one-twelfth (1/12) of the sum of Tenant's Share of the Estimated Expense Excess plus Tenant's Share of the Estimated Tax Excess, as such amounts are set forth in the previous Estimate Statement. Any failure of Landlord to timely deliver any Estimate Statement shall not diminish Landlord's rights to receive payments and revise any previous Estimate Statement under this Exhibit.

#### 4.3 **Retroactive Adjustment of Taxes.**

Notwithstanding any contrary provision hereof, if, after Landlord's delivery of any Statement, an increase or decrease in Taxes occurs for the applicable Expense Year or for the Base Year (whether by reason of reassessment, error, or otherwise), Taxes for such Expense Year or the Base Year, as the case may be, and the Tax Excess for such Expense Year shall be retroactively adjusted. If, as a result of such adjustment, it is determined that Tenant has under- or overpaid Tenant's Share of such Tax Excess, Tenant shall pay Landlord the amount of such underpayment, or receive a credit in the amount of such overpayment, with or against the Rent next coming due hereunder; provided, however, that if this Lease has expired or terminated and Tenant has vacated the Premises, Tenant shall pay Landlord the amount of such underpayment, or Landlord shall pay Tenant the amount of such overpayment (less any Rent due), within 30 days after such adjustment is made.

#### 5 **Charges for Which Tenant Is Directly Responsible.**

Notwithstanding any contrary provision hereof, Tenant, promptly upon demand, shall pay (or if paid by Landlord, reimburse Landlord for) each of the following to the extent levied against Landlord or Landlord's property: (a) any tax based upon or measured by (i) the cost or value of Tenant's trade fixtures, equipment, furniture or other personal property, or (ii) the cost or value of the Leasehold Improvements (defined in Section 6.1 of the Lease) to the extent such cost or value exceeds that of a Building-standard build-out, as reasonably determined by Landlord; (b) any rent tax, sales tax, service tax, transfer tax, value added tax, use tax, business tax, gross income tax, gross receipts tax, or other tax, assessment, fee, levy or charge measured solely by the square footage, Rent, services, tenant allowances or similar amounts, rights or obligations described or provided in or under this Lease; (c) any tax assessed upon the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of any portion of the Property; and (d) any tax assessed on this transaction or on any document to which Tenant is a party that creates an interest or estate in the Premises.

#### 6 **Books and Records.**

Within 150 days after receiving any Statement (the "**Review Notice Period**"), Tenant may give Landlord notice ("**Review Notice**") stating that Tenant elects to review Landlord's calculation of the Expense Excess for the Expense Year to which such Statement applies. Within a reasonable time after receiving a timely Review Notice (and, at Landlord's option, an executed confidentiality agreement as described below), Landlord shall deliver to Tenant, or make available for inspection at a location reasonably designated by Landlord, copies of such records. Within 90 days after such records are made available to Tenant (the "**Objection Period**"), Tenant may deliver to Landlord notice (an "**Objection Notice**") stating with reasonable specificity any objections to the Statement, in which event Landlord and Tenant shall work together in good faith to resolve Tenant's objections. Tenant may not deliver more than one Review Notice or more than one Objection Notice with respect to any Statement. If Tenant fails to give Landlord a Review Notice before the expiration of the Review Notice Period or fails to give Landlord an Objection Notice before the expiration of the Objection Period, Tenant shall be deemed to have approved the Statement. Notwithstanding any contrary provision hereof, Landlord shall not be required to deliver or make available to Tenant records relating to the Base Year, and Tenant may not object to Expenses or Taxes for the Base Year, other than in connection with and concurrently with the first review for an Expense Year performed by Tenant pursuant to this Section 6 on the terms and conditions set forth herein. If Tenant retains an agent to review Landlord's records, the agent must be with a CPA firm licensed to do business in the state or commonwealth in which the Building is located and its fees shall not be contingent, in whole or in part, upon the outcome of the review. Tenant shall be responsible for all costs of such review unless it is determined by Landlord and Tenant or by the Neutral Auditor that Tenant was overcharged by more than 5% in which case Landlord shall pay all audit charges. The records and any related information obtained from Landlord shall be treated as confidential, and as applicable only to the Premises, by Tenant, its auditors, consultants, and any other parties reviewing the same on behalf of Tenant (collectively, "**Tenant's Auditors**"). Before making any records available for review, Landlord may require Tenant and Tenant's Auditors to execute a reasonable confidentiality agreement, in which event Tenant shall cause the same to be executed and delivered to Landlord within 30 days after receiving it from Landlord, and if Tenant fails to do so, the Objection Period shall be reduced by one day for each day by which such execution and delivery follows the expiration of such 30-day period. Notwithstanding any contrary provision hereof, Tenant may not examine Landlord's records or dispute any Statement if any Rent remains unpaid past its due date. If, for any Expense Year, Landlord and Tenant determine that the sum of Tenant's Share of the actual Expense Excess is less or more than the amount reported, Tenant shall receive a credit in the amount of its overpayment, or pay Landlord the amount of its underpayment, against or with the Rent next due hereunder; provided, however, that if this Lease has expired or terminated and Tenant has vacated the Premises, Landlord shall pay Tenant the amount of its overpayment (less any Rent due), or Tenant shall pay Landlord the amount of its underpayment, within 30 days after such determination. If Landlord does not agree with Tenant's determination, a final, binding determination shall be made by a neutral accountant selected by Landlord and reasonably approved by Tenant (the "**Neutral Auditor**").

**EXHIBIT C**

**HIGHLANDS CORPORATE CENTER SOUTH PLAZA**

**WORK LETTER**

As used in this **Exhibit C** (this “**Work Letter**”), (i) “**Tenant Improvements**” means all improvements to be constructed in the Premises pursuant to this Work Letter; (ii) “**Tenant Improvement Work**” means the construction of the Tenant Improvements, together with any related work (including demolition) that is necessary to construct the Tenant Improvements; and (iii) “**Agreement**” means the Lease of which this Work Letter is a part. All capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement.

**1 ALLOWANCE.**

1.1 **Allowance.** Subject to the terms set forth herein, Tenant shall be entitled to a one-time tenant improvement allowance (the “**Allowance**”) in the amount of \$1,026,630.00 (based upon \$76.50 per rentable square foot of the Premises) to be applied toward the Allowance Items (defined in **Section 1.2** below). Tenant shall be responsible for all costs associated with the Tenant Improvement Work, including the costs of the Allowance Items, to the extent such costs exceed the lesser of (a) the Allowance, or (b) the aggregate amount that Landlord is required to disburse for such purpose pursuant to this Work Letter. Notwithstanding any contrary provision of this Work Letter, if Tenant fails to use the entire Allowance by April 30, 2021 (the “**Unused Allowance Deadline**”), the unused amount shall revert to Landlord and Tenant shall not be entitled to any credit, offset, abatement or payment and Tenant shall have no further rights with respect thereto. Except as provided in Section 1.2.2 below, in no event shall any portion of the Allowance be used for the purchase of any equipment, furniture or other items of personal property of Tenant.

1.2 **Disbursement of Allowance.**

1.2.1 **Allowance Items.** Except as otherwise provided in this Work Letter, the Allowance shall be disbursed by Landlord only for the following items (the “**Allowance Items**”): (a) the fees of the Architect (defined in **Section 2.1** below) and the Engineers (defined in **Section 2.1** below), and any Review Fees (defined in **Section 2.3** below); (b) plan-check, permit, license and other fees relating to performance of the Tenant Improvement Work; (c) the cost of performing the Tenant Improvement Work, including contractors’ fees and general conditions, after-hours charges, testing and inspection costs, freight elevator usage, hoisting and trash removal costs, and all other costs reasonably expended by Tenant in connection with the performance of the Tenant Improvement Work; (d) the cost of any change to the base, shell or core of the Premises or Building required by the Plans (defined in **Section 2.1** below) (including if such change is due to the fact that such work is prepared on an unoccupied basis), including all direct architectural and/or engineering fees and expenses incurred in connection therewith; (e) the cost of any change to the Plans or Tenant Improvement Work required by law; (f) the Coordination Fee (defined in **Section 3.2.2** below); (g) sales and use taxes; and (h) the fees of Tenant’s construction manager, which fees, notwithstanding any contrary provisions of this Work Letter, shall not exceed a total of \$41,065.20. Upon completion of the Tenant Improvement Work and payment of all costs related thereto, and provided Tenant is not in Default under the Agreement, Tenant may request by written notice to Landlord that Landlord apply up to a total of \$134,200.00 of the unused Allowance (the “**Unused Allowance**”) against the (i) cost of furniture, fixtures and equipment and voice and data cabling to be installed in the Premises (collectively, the “**Equipment Costs**”), or (ii) the then next due installments of Base Rent for the Premises due under the Lease. However, in no event shall Landlord have any obligation to apply any portion of the Unused Allowance against the Equipment Costs or Tenant’s Base Rent after the Unused Allowance Deadline, it being agreed that Tenant shall not be entitled to any credit, offset, abatement or payment with respect thereto after the Unused Allowance Deadline. If Tenant desires that Landlord shall disburse any portion of the Unused Allowance toward the Equipment Costs, Landlord shall disburse such portion of the Unused Allowance requested by Tenant for such purpose within 30 days after Landlord’s receipt of invoices from Tenant with respect to Tenant’s actual Equipment Costs (provided that such invoices are received by Landlord prior to the date which is 30 days prior to the Unused Allowance Deadline).

1.2.2 **Disbursement.** Subject to the provisions of this Work Letter, Landlord shall make monthly disbursements of the Allowance for Allowance Items and shall authorize the release of monies for Tenant’s benefit as follows:

1.2.2.1 **Monthly Disbursements.** Not more frequently than once per calendar month during the performance of the Tenant Improvement Work, Tenant may deliver to Landlord: (i) a request for payment of the Contractor (defined in **Section 3.1** below), approved by Tenant, in AIA G-702/G-703 format or another format reasonably requested by Landlord, showing the schedule of values, by trade, of percentage of completion of the Tenant Improvement Work, detailing the portion of the work completed and the portion not completed; (ii) copies of all third-party contracts (including change orders) pursuant to

which the Tenant Improvement Work has been performed, including paid invoices from all of Tenant's Agents (defined in Section 3.1.2 below) for labor rendered and materials delivered to the Premises (collectively, the "**Construction Contracts**"); (iii) executed conditional mechanic's lien releases from all of Tenant's Agents (along with unconditional mechanic's lien releases with respect to payments made pursuant to Tenant's prior submission hereunder) which shall comply with California Civil Code §§ 8132 and/or 8134, as applicable; and (iv) all other information reasonably requested by Landlord. Tenant's request for payment shall be deemed Tenant's acceptance and approval of the work furnished and/or the materials supplied as set forth in Tenant's payment request. Subject to the terms hereof, within 30 days after receiving such materials, Landlord shall disburse to Tenant, or at Landlord's option, to the order of the contractor and/or the Tenant's Agents that performed the applicable work, an amount equal to the lesser of (a) 90% of the Landlord's Share (defined below) of the amount requested by Tenant pursuant to the preceding sentence, it being agreed that Landlord may retain from each disbursement a 10% retention (the aggregate amount of such retentions shall be referred to in this Work Letter as the "**Final Retention**"), or (b) the amount of any remaining portion of the Allowance (not including the Final Retention). In the alternative, Landlord may elect, in Landlord's sole discretion, to disburse to Tenant the full amount of the Landlord's Share of the amount requested by Tenant for each such disbursement in accordance with this Section 1.2.2.1, and withhold the full amount of the 10% retention from the final disbursement(s) requested by Tenant. Landlord shall have no obligation to make any such disbursements if Landlord disputes any request for payment based on any failure of the work to comply with the Approved Construction Drawings (defined in Section 2.3 below) or if such work otherwise is not of the required quality, or for any other reason. Landlord's payment of such amounts shall not be deemed Landlord's approval or acceptance of the work or materials described in Tenant's payment request. As used in this Section 1.2.2.1, "**Landlord's Share**" means the lesser of (i) 100%, or (ii) the percentage obtained by dividing the Allowance by the estimated sum of all Allowance Items, as determined based on the Construction Contracts.

1.2.2.2 Final Retention. Subject to the terms hereof, Landlord shall disburse to Tenant, or at Landlord's option, to the order of the contractor that performed the applicable work, the Final Retention, together with any other undisbursed portion of the Allowance required to pay for the Allowance Items, within 30 days after the latest of (a) the completion of the Tenant Improvement Work in accordance with the Approved Construction Drawings; (b) Tenant's delivery to Landlord of (i) properly executed mechanic's lien releases in compliance with California Civil Code §§ 8132 and/or 8134, as applicable, (ii) a certificate from the Architect, in a form reasonably acceptable to Landlord, certifying that the Tenant Improvement Work has been substantially completed and installed in good and workmanlike manner in accordance with the Approved Construction Drawings and applicable laws, (iii) evidence that all required governmental approvals required for Tenant to legally occupy the Premises have been obtained, and (iv) any other information reasonably requested by Landlord; (c) Tenant's performance of its obligations under clause (a) of the first sentence of Section 3.3 below; or (d) Tenant's compliance with Landlord's standard "**close-out**" requirements regarding city approvals, closeout tasks, the general contractor, financial close-out matters, and tenant vendors. Landlord's payment of the Final Retention shall not be deemed Landlord's approval or acceptance of the work or materials described in Tenant's payment requests.

## 2 PLANS.

2.1 Selection of Architect/Plans. Tenant shall retain RBN (the "**Architect**") and the engineering consultants designated by Landlord or an engineering consultant proposed by Tenant and reasonably approved by Landlord (the "**Engineers**") to prepare all architectural plans for the Premises and all engineering working drawings relating to the structural, mechanical, electrical, plumbing, HVAC, life-safety, and sprinkler work in the Premises. The plans and drawings to be prepared by the Architect and the Engineers hereunder shall be referred to herein collectively as the "**Plans**." All Plans shall (a) comply with the industry standard drawing format and specifications required by Landlord, (b) be consistent with Landlord's requirements for avoiding aesthetic, engineering or other conflicts with the design and function of the balance of the Building, and (c) otherwise be subject to Landlord's approval, which shall not be unreasonably withheld. Tenant shall cause the Architect to verify, in the field, the dimensions and conditions as shown on the relevant portions of the base Building plans, and Landlord shall have no responsibility in connection therewith. Landlord's review of the Plans and approval of the Approved Construction Drawings shall be for its sole benefit and shall not create or imply any obligation on the part of Landlord to review the same for Tenant's benefit, whether with respect to quality, design, compliance with law or any other matter. Accordingly, notwithstanding any review of the Plans by Landlord or any of its space planners, architects, engineers or other consultants, and notwithstanding any advice or assistance that may be rendered to Tenant by Landlord or any such consultant, Landlord shall not be liable for any error or omission in the Plans or have any other liability relating thereto. Without limiting the foregoing, Tenant shall be responsible for ensuring (x) that all elements of the design of the Plans comply with law and are otherwise suitable for Tenant's use of the Premises (including the configuration of the Premises and the placement of Tenant's furniture, appliances and equipment), and (y) that no Tenant Improvement impairs any system or structural component of the Building, and Landlord's approval of the Construction Drawings (defined in Section 2.3 below) shall not relieve Tenant from such responsibility.

2.2 **Space Plan.** Tenant shall cause the Architect to prepare a space plan for the Tenant Improvement Work, including a layout and designation of all offices, rooms and other partitioning, and equipment to be contained in the Premises, together with their intended use (the “**Space Plan**”), and shall deliver a pdf copy of the Space Plan, signed by Tenant, by email (return receipt requested) to Landlord for its approval. Landlord shall provide Tenant with notice approving or reasonably disapproving the Space Plan within 5 business days after the later of Landlord’s receipt thereof or the mutual execution and delivery of the Agreement. If Landlord disapproves the Space Plan, Landlord’s notice of disapproval shall describe with reasonable specificity the basis for such disapproval and the changes that would be necessary to resolve Landlord’s objections. If Landlord disapproves the Space Plan, Tenant shall cause the Space Plan to be modified and resubmitted to Landlord for its approval. Such procedure shall be repeated as necessary until Landlord has approved the Space Plan. At Landlord’s option, before submitting the Construction Drawings, Tenant shall supply Landlord with intermediate stages of the Plans.

2.3 **Construction Drawings.** After Landlord approves the Space Plan, Tenant shall cause the Architect and the Engineers to complete the architectural, engineering and final architectural working drawings for the Tenant Improvement Work in a form that is sufficient to enable subcontractors to bid on the work and to obtain all applicable permits (collectively, the “**Construction Drawings**”), and shall deliver two (2) full size sets of the Construction Drawings, signed by Tenant, to Landlord for its approval. Notwithstanding the foregoing, at Tenant’s option, the Construction Drawings may be prepared in two phases (first the architectural drawings, then engineering drawings consistent with the previously provided architectural drawings), provided that each phase shall be subject to Landlord’s approval. Landlord shall provide Tenant with notice approving or reasonably disapproving the Construction Drawings (or the applicable component thereof) within 10 business days after the later of Landlord’s receipt thereof or the mutual execution and delivery of the Agreement. If Landlord disapproves the Construction Drawings (or any component thereof), Landlord’s notice of disapproval shall describe with reasonable specificity the basis for such disapproval and the changes that would be necessary to resolve Landlord’s objections. If Landlord disapproves the Construction Drawings (or any component thereof), Tenant shall cause the Construction Drawings to be modified and resubmitted to Landlord for its approval. Such procedure shall be repeated as necessary until Landlord has approved the Construction Drawings (or the applicable component thereof). Tenant shall not commence the Tenant Improvement Work until after the Construction Drawings are approved by Landlord. No revision may be made to the approved Construction Drawings (the “**Approved Construction Drawings**”) without Landlord’s prior consent, which shall not be unreasonably withheld. Tenant shall reimburse Landlord, upon demand, for any out-of-pocket fees reasonably incurred by Landlord for review of the Plans by Landlord’s third party consultants (“**Review Fees**”).

2.4 **Permits.** Tenant shall submit the Approved Construction Drawings to the appropriate municipal authorities and otherwise apply for and obtain from such authorities all applicable building permits necessary to allow the Contractor to commence and complete the performance of the Tenant Improvement Work (the “**Permits**”). Tenant shall coordinate with Landlord in order to allow Landlord, at its option, to take part in all phases of the permitting process and shall supply Landlord, as soon as possible, with all plan check numbers and dates of submittal. Notwithstanding any contrary provision of this Section 2.4, Tenant, and not Landlord or its consultants, shall be responsible for obtaining any Permit or certificate of occupancy; provided, however, that Landlord shall cooperate with Tenant in executing permit applications and performing other ministerial acts reasonably necessary to enable Tenant to obtain any Permit or certificate of occupancy. Prior to the issuance of the Permits, Tenant may access the Premises for planning and inspections (but not construction). Tenant shall not commence construction until all required Permits are obtained.

### 3 CONSTRUCTION.

#### 3.1 **Selection of Contractors.**

3.1.1 **The Contractor.** Tenant shall retain a general contractor (the “**Contractor**”) to perform the Tenant Improvement Work. The Contractor shall be selected by Tenant, by notice to Landlord, and reasonably approved by Landlord. For purposes of this Section 3.1.1, Landlord’s approval of a proposed general contractor shall not be considered unreasonably withheld (without limitation on other reasons) if such general contractor (a) does not have trade references reasonably acceptable to Landlord, (b) does not maintain insurance as required under the terms of the Agreement, (c) does not provide current financial statements reasonably acceptable to Landlord, or (d) is not licensed as a contractor in the state/municipality in which the Premises is located. Tenant acknowledges that the foregoing is not an exclusive list of the reasons why Landlord may reasonably disapprove a proposed general contractor.

3.1.2 **Tenant’s Agents.** All subcontractors used by Tenant (such subcontractors, together with the Contractor, to be referred to herein collectively as “**Tenant’s Agents**”) must be approved by Landlord. Such approval shall not be unreasonably withheld; provided, however, that Landlord may require Tenant to retain certain subcontractors designated by Landlord for mechanical, electrical, and fire life safety.

## 3.2 Construction.

3.2.1 **Construction Contract; Final Costs.** Tenant shall not enter into a construction contract with the Contractor (the “**Contract**”) unless it complies with Sections 3.2.3 and 3.2.4 below and Tenant shall deliver a copy thereof to Landlord for its records and to confirm such compliance. Before commencing construction of the Tenant Improvement Work, Tenant shall deliver to Landlord a detailed breakdown of the schedule of values, by trade, of the final costs that will be or have been incurred, as set forth more particularly in Section 1.2.1 above, in connection with the performance of the Tenant Improvement Work and that form the basis for the amount of the Contract (the “**Final Costs**”). If the Final Costs exceed the Allowance, then, Tenant shall be responsible for such excess and shall pay such excess prior to Landlord’s obligation to commence funding the Allowance and Landlord may require Tenant to provide reasonable evidence that Tenant has funded such excess prior to commencement of Landlord’s obligation to fund the Allowance. If, after being delivered to Landlord, the Final Costs increase to a total amount which is in excess of the Allowance, Tenant shall similarly be responsible for funding such excess prior to Landlord’s obligation to fund the Allowance. The amounts payable by Tenant hereunder constitute Rent payable pursuant to the Agreement, and the failure to timely pay the same constitutes an event of default under the Agreement.

3.2.2 **Landlord’s General Conditions for Tenant Improvement Work.** The Tenant Improvement Work shall be performed in a good and workmanlike manner and in strict accordance with the Approved Construction Drawings. Tenant shall cause Tenant’s Agents to submit to Landlord schedules of all work relating to the Tenant Improvement Work, whereupon Landlord, within five (5) business days, shall inform Tenant’s Agents of any necessary changes thereto, and Tenant shall cause Tenant’s Agents to adhere to such corrected schedule. Tenant shall abide by all rules established by Landlord relating to the performance of the Tenant Improvement Work, including rules relating to the use of freight, loading dock and service elevators; any required shutdown of utilities (including life-safety systems); storage of materials; and coordination of work with other tenants’ contractors. In addition to any Review Fees payable by Tenant to Landlord (as provided in Section 2.3 above), in consideration of Landlord’s coordination of the performance of the Tenant Improvement Work, Tenant shall pay Landlord a fee (the “**Coordination Fee**”) in an amount equal to 1% of the hard costs of constructing the Tenant Improvement Work.

3.2.3 **Warranty of Contractor.** Tenant shall cause the Contractor to agree to be responsible for (a) the repair, replacement and/or removal, without additional charge, of any portion of the Tenant Improvement Work that is or becomes defective, in workmanship, materials or otherwise, on or before the date occurring one (1) year after the later to occur of (i) completion of the Tenant Improvement Work, or (ii) the Commencement Date; and (b) the repair of any damage to the Building and/or Common Areas resulting from such repair, replacement and/or removal. Such agreement shall be expressly set forth in the Contract and, by its terms, shall inure to the benefit of both Landlord and Tenant as their respective interests may appear, and shall be enforceable by either Landlord or Tenant. Upon Landlord’s request, Tenant shall provide Landlord with any assignment or other assurance that may be necessary to enable Landlord to enforce such agreement directly against the Contractor.

3.2.4 **Insurance Requirements.** Tenant shall carry “**Builder’s All Risk**” insurance in an amount approved by Landlord covering the Tenant Improvement Work, together with such other insurance as Landlord may reasonably require.

3.2.5 **Compliance.** The Tenant Improvement Work shall comply in all respects with (i) all applicable laws; (ii) all applicable standards of the American Insurance Association (formerly, the National Board of Fire Underwriters) and the National Electrical Code; and (iii) all applicable building material manufacturer’s specifications. Without limiting the foregoing, if, as a result of Tenant’s performance of the Tenant Improvement Work, Landlord becomes required under law to perform any inspection or give any notice relating to the Premises or the Tenant Improvement Work, or to ensure that the Tenant Improvement Work is performed in any particular manner, Tenant shall comply with such requirement on Landlord’s behalf and promptly thereafter provide Landlord with reasonable documentation of such compliance.

3.2.6 **Inspection by Landlord.** Notwithstanding any contrary provision of the Agreement, Landlord, at any time and without notice to Tenant, may enter the Premises to inspect the Tenant Improvement Work. Neither Landlord’s performance of such inspection nor its failure to perform such inspection shall result in a waiver of any of Landlord’s rights hereunder or be deemed to imply Landlord’s approval of the Tenant Improvement Work. If, by notice to Tenant, Landlord reasonably identifies any defect in the Tenant Improvement Work, Tenant shall promptly cause the Contractor to correct such defect at no expense to Landlord. Notwithstanding any contrary provision of this Work Letter or the Agreement, if a material defect in the Tenant Improvement Work so identified by Landlord might adversely affect any system or structural component of the Building, the curtain wall or exterior appearance of the Building, or any other tenant’s use of the Building, or might give rise to liability on the part of Landlord to any third party, then (a) Landlord, at Tenant’s expense, may take such action (including suspension of the Tenant

Improvement Work) as Landlord reasonably deems necessary to correct such defect, and (b) until such defect is corrected, Landlord shall have no obligation to disburse any portion of the Allowance.

3.2.7 **Meetings.** Upon commencement of the construction, Tenant shall hold weekly meetings with the Architect and the Contractor regarding the progress of the performance of the Tenant Improvement Work. Such meetings shall be held at a mutually agreeable location and at a reasonable time of which Tenant shall provide Landlord with at least three (3) business days' prior notice. Landlord may attend such meetings, and, upon Landlord's request, Tenant shall cause Tenant's Agents to attend such meetings. Tenant shall cause minutes of such meetings to be prepared and copies thereof to be delivered promptly to Landlord. One such meeting per month shall include a review of the Contractor's current request for payment.

3.2.8 **Tenant's Covenants.** Within 10 days after completing the Tenant Improvement Work, Tenant shall cause a Notice of Completion to be recorded in the office of the Recorder of the county in which the Building is located, in accordance with California Civil Code § 3093 or any successor statute, and shall furnish a copy thereof to Landlord upon such recordation. If Tenant fails to do so, Landlord may execute and file the same on behalf of Tenant as Tenant's agent for such purpose, at Tenant's expense. Within 30 days after completing the Tenant Improvement Work, (a) Tenant shall cause the Architect and the Contractor to (i) update the Approved Construction Drawings as necessary to reflect all changes made to the Approved Construction Drawings during the course of construction, (ii) certify to the best of their knowledge that the updated drawings are true and correct, which certification shall survive the expiration or termination of the Agreement, and (iii) deliver to Landlord two (2) CD ROMS of such updated drawings in accordance with Landlord's CAD Format Requirements (defined below); and (b) Tenant shall deliver to Landlord copies of all warranties, guaranties, and operating manuals and information relating to the improvements, equipment, and systems in the Premises. For purposes hereof, "**Landlord's CAD Format Requirements**" shall mean (w) the version is no later than current Autodesk version of AutoCAD plus the most recent release version, (x) files must be unlocked and fully accessible (no "cad-lock", read-only, password protected or "signature" files), (y) files must be in ".dwg" format, and (z) if the data was electronically in a non-Autodesk product, then files must be converted into ".dwg" files when given to Landlord.

#### 4 MISCELLANEOUS.

4.1 **Tenant Default.** Notwithstanding any contrary provision of this Work Letter or the Agreement, if Tenant defaults under this Work Letter or the Agreement before the Tenant Improvement Work is completed, then (a) Landlord's obligations under this Work Letter shall be excused, and Landlord may cause the Contractor to cease performance of the Tenant Improvement Work, until such default is cured, and (b) Tenant shall be responsible for any resulting delay in the completion of the Tenant Improvement Work.

4.2 **Other.** This Work Letter shall not apply to any space other than the Premises. Tenant agrees to accept the Premises in its "as-is", "where-as" condition and configuration, it being agreed that Landlord shall not be required to perform any work or, except as provided above with respect to the Allowance, incur any costs in connection with the construction or demolition of any improvements in the Premises.

4.3 **Landlord Delay.** The Commencement Date specified in Section 1.2.2(ii) of the Basic Lease Information shall be extended by the number of days of delay of the substantial completion of the Tenant Improvements in the Premises to the extent caused by a "Landlord Delay," as that term is defined, below. As used herein, the term "**Landlord Delay**" shall mean (i) failure of Landlord to timely deliver the Premises for Tenant's construction or to timely approve or disapprove any Construction Drawings; (ii) unreasonable and material interference by Landlord, its agents, employees or contractors with the substantial completion of the Tenant Improvements and which objectively preclude construction of tenant improvements in the Building by any person, which interference relates to access by Tenant, its agents and contractors to the Building or any Building facilities (including loading docks, if any, and freight elevators) or service (including parking areas as provided herein) during normal construction hours, or the use thereof during normal construction hours; or (iii) delays due to the acts or failures to act of Landlord, its agents, employees or contractors with respect to payment of the Allowance and any cessation of work upon the Tenant Improvements as a result thereof. Notwithstanding anything to the contrary contained herein, a Landlord Delay shall not include any of the foregoing delays to the extent caused by the acts, omissions, or misconduct of Tenant or Tenant's Agents. No Landlord Delay shall be deemed to have occurred unless Tenant has given Landlord written notice that an act or omission on the part of Landlord or its agents is about to occur or has occurred which will cause a delay in the completion of the Improvements and Landlord has failed to cure such delay within one (1) business day after Landlord's receipt of such notice, in which case the number of days of delay after such notice shall be a Landlord Delay.

**EXHIBIT D**

**HIGHLANDS CORPORATE CENTER SOUTH PLAZA**

**CONFIRMATION LETTER**

\_\_\_\_\_, 20\_\_

To: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Re: Office Lease (the "**Lease**") dated \_\_\_\_\_, 20\_\_\_\_, between BRE CA Office Owner LLC, a Delaware limited liability company ("**Landlord**"), and KURA ONCOLOGY, INC., a Delaware corporation ("**Tenant**"), concerning Suite 400 on the 4th floor of the building located at 12730 High Bluff Drive, San Diego, California.

Lease ID: \_\_\_\_\_

Business Unit Number: \_\_\_\_\_

Dear \_\_\_\_\_:

In accordance with the Lease, Tenant accepts possession of the Premises and confirms that the Commencement Date is \_\_\_\_\_, and the Expiration Date is \_\_\_\_\_.

Please acknowledge the foregoing by signing all 3 counterparts of this letter in the space provided below and returning 2 fully executed counterparts to my attention. Please note that, pursuant to Section 2.1 of the Lease, Tenant is required to execute and return (or, by notice to Landlord, reasonably object to) this letter within 10 business days after receiving it.

"Landlord":

BRE CA OFFICE OWNER LLC, a limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agreed and Accepted as of \_\_\_\_\_, 20\_\_.

"Tenant":

Kura Oncology, Inc., a Delaware corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT E

### HIGHLANDS CORPORATE CENTER SOUTH PLAZA

#### RULES AND REGULATIONS

Tenant shall comply with the following rules and regulations (as modified or supplemented from time to time, the "Rules and Regulations"). Landlord shall not be responsible to Tenant for the nonperformance of any of the Rules and Regulations by any other tenants or occupants of the Project. In the event of any conflict between the Rules and Regulations and the other provisions of this Lease, the latter shall control.

1. Tenant shall not alter any lock or install any new or additional locks or bolts on any doors or windows of the Premises or the Building without obtaining Landlord's prior consent. Landlord shall have the right at all times to retain and use keys or other access codes or devices to all locks within and into the Premises. Tenant shall bear the cost of any lock changes or repairs required by Tenant. Two keys will be furnished by Landlord for the Premises, and any additional keys required by Tenant must be obtained from Landlord at a reasonable cost to be established by Landlord. Upon the termination of this Lease, Tenant shall restore to Landlord all keys of stores, offices and toilet rooms furnished to or otherwise procured by Tenant, and if any such keys are lost, Tenant shall pay Landlord the cost of replacing them or of changing the applicable locks if Landlord deems such changes necessary.

2. All doors opening to public corridors shall be kept closed at all times except for normal ingress and egress to the Premises.

3. Landlord may close and keep locked all entrance and exit doors of the Building during such hours as are customary for Comparable Buildings. Tenant shall cause its employees, agents, contractors, invitees and licensees who use Building and corridor doors during such hours to securely close and lock them after such use. Any person entering or leaving the Building during such hours, or when the Building doors are otherwise locked, may be required to sign the Building register, and access to the Building may be refused unless such person has proper identification or has a previously arranged access pass. Landlord will furnish passes to persons for whom Tenant requests them. Tenant shall be responsible for all persons for whom Tenant requests passes and shall be liable to Landlord for all acts of such persons. Landlord and its agents shall not be liable for damages for any error with regard to the admission or exclusion of any person to or from the Building. In case of invasion, mob, riot, public excitement or other commotion, Landlord may prevent access to the Building or the Project during the continuance thereof by any means it deems appropriate for the safety and protection of life and property.

4. No furniture, freight or equipment shall be brought into the Building without prior notice to Landlord. All moving activity into or out of the Building shall be scheduled with Landlord and done only at such time and in such manner as Landlord designates. Landlord may prescribe the weight, size and position of all safes and other heavy property brought into the Building and also the times and manner of moving the same in and out of the Building. Safes and other heavy objects shall, if considered necessary by Landlord, stand on supports of such thickness as is necessary to properly distribute the weight. Landlord will not be responsible for loss of or damage to any such safe or property. Any damage to the Building, its contents, occupants or invitees resulting from Tenant's moving or maintaining any such safe or other heavy property shall be the sole responsibility and expense of Tenant (notwithstanding Sections 6 and 9.4 of the Lease).

5. No furniture, packages, supplies, equipment or merchandise will be received in the Building or carried up or down in the elevators, except between such hours, in such specific elevator and by such personnel as shall be designated by Landlord.

6. No sign, advertisement, notice or handbill shall be exhibited, distributed, painted or affixed by Tenant on any part of the Premises or the Building without Landlord's prior consent. Tenant shall not disturb, solicit, peddle or canvass any occupant of the Project.

7. The toilet rooms, urinals, wash bowls and other apparatus, plumbing, fixtures and appliances shall not be used for any purpose other than that for which they were constructed, and no foreign substance shall be thrown or placed therein. Notwithstanding Sections 6 and 9.4 of the Lease, Tenant shall bear the expense of any breakage, stoppage or damage resulting from any violation of this rule by Tenant or any of its employees, agents, contractors, invitees or licensees.

8. Tenant shall not overload the floor of the Premises, or mark, drive nails or screws or drill into the partitions, woodwork or drywall of the Premises, or otherwise deface the Premises, without Landlord's prior consent. Tenant shall not purchase bottled water, ice, towel, linen, maintenance or other like services from any person not approved by Landlord.

9. Except for vending machines intended for the sole use of Tenant's employees and invitees, no vending machine or machines other than fractional horsepower office machines shall be installed, maintained or operated in the Premises without Landlord's prior consent.

10. Tenant shall not, without Landlord's prior consent, use, store, install, disturb, spill, remove, release or dispose of, within or about the Premises or any other portion of the Project, any asbestos-containing materials, any solid, liquid or gaseous material now or subsequently considered toxic or hazardous under the provisions of 42 U.S.C. Section 9601 et seq. or any other applicable environmental Law, or any inflammable, explosive or dangerous fluid or substance; provided, however, that Tenant may use, store and dispose of such substances in such amounts as are typically found in similar premises used for general office purposes provided that such use, storage and disposal does not damage any part of the Premises, Building or Project and is performed in a safe manner and in accordance with all Laws. Tenant shall comply with all Laws pertaining to and governing the use of such materials by Tenant and shall remain solely liable for the costs of abatement and removal. No burning candle or other open flame shall be ignited or kept by Tenant in or about the Premises, Building or Project.

11. Tenant shall not, without Landlord's prior consent, use any method of heating or air conditioning other than that supplied by Landlord.

12. Tenant shall not use or keep any foul or noxious gas or substance in or on the Premises, or occupy or use the Premises in a manner offensive or objectionable to Landlord or other occupants of the Project by reason of noise, odors or vibrations, or interfere with other occupants or those having business therein, whether by the use of any musical instrument, loudspeaker or otherwise. Tenant shall not throw anything out of doors, windows or skylights or down passageways.

13. Tenant shall not bring into or keep within the Project, the Building or the Premises any animals (other than service animals), birds, aquariums, or, except in areas designated by Landlord, bicycles or other vehicles.

14. No cooking shall be done in the Premises, nor shall the Premises be used for lodging, for living quarters or sleeping apartments, or for any improper, objectionable, illegal or immoral purposes. Notwithstanding the foregoing, Underwriters' laboratory-approved equipment and microwave ovens may be used in the Premises for heating food and brewing coffee, tea, hot chocolate and similar beverages for employees and invitees, provided that such use complies with all Laws.

15. The Premises shall not be used for manufacturing or for the storage of merchandise except to the extent such storage may be incidental to the Permitted Use. Tenant shall not occupy the Premises as an office for a messenger-type operation or dispatch office, public stenographer or typist, or for the manufacture or sale of liquor, narcotics or tobacco, or as a medical office, a barber or manicure shop, an employment bureau, or a business that is materially involved in the cannabis industry without Landlord's prior consent.

16. Landlord may exclude from the Project any person who, in Landlord's judgment, is intoxicated or under the influence of liquor or drugs, or who violates any of these Rules and Regulations.

17. Tenant shall not loiter in or on the entrances, corridors, sidewalks, lobbies, courts, halls, stairways, elevators, vestibules or any Common Areas for the purpose of smoking tobacco products or for any other purpose, nor in any way obstruct such areas, and shall use them only as a means of ingress and egress for the Premises. Tenant shall not permit smoke from the Premises to emanate into the Common Areas or any other part of the Building. Landlord shall have the right to designate the Building (including the Premises) as a non-smoking Building. Tenant must comply with any applicable state or local "**No Smoking**" ordinance.

18. Tenant shall not waste electricity, water or air conditioning, shall cooperate with Landlord to ensure the most effective operation of the Building's heating and air conditioning system, and shall not attempt to adjust any controls. Tenant shall install and use in the Premises only ENERGY STAR rated equipment, where available. Tenant shall use recycled paper in the Premises to the extent consistent with its business requirements. Tenant shall not use more than its proportionate share of telephone lines and other telecommunication facilities available to service the Building.

19. Tenant shall store all its trash and garbage inside the Premises. No material shall be placed in the trash or garbage receptacles if, under Law, it may not be disposed of in the ordinary and customary manner of disposing of trash and garbage in the vicinity of the Building. All trash, garbage and refuse disposal shall be made only through entryways and elevators provided for such purposes at such times as Landlord shall designate. Tenant shall comply with Landlord's recycling program, if any.

20. Tenant shall comply with all safety, security, fire protection and evacuation procedures, programs and regulations established or required by Landlord, any governmental agency or Law.

21. The work of cleaning personnel shall not be hindered by Tenant after 5:30 P.M., and cleaning work may be done at any time when the offices are vacant. Windows, doors and fixtures may be cleaned at any time. Tenant shall provide adequate waste and rubbish receptacles to prevent unreasonable hardship to the cleaning service. Any persons employed by Tenant to do janitorial work (a) shall be subject to Landlord's prior consent; (b) shall not, in Landlord's reasonable judgment, disturb labor harmony with any workforce or trades engaged in performing other work or services at the Project; and (c) while in the Building and outside of the Premises, shall be subject to the control and direction of the Building manager (but not as an agent or employee of such manager or Landlord), and Tenant shall be responsible for all acts of such persons.

22. No awning or other projection shall be attached to the outside walls of the Building without Landlord's prior consent. Other than Landlord's Building-standard window coverings, no curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises. All electrical ceiling fixtures hung in the Premises or spaces along the perimeter of the Building must be fluorescent and/or of a quality, type, design and a warm white bulb color approved in advance by Landlord. Neither the interior nor exterior of any windows shall be coated or otherwise sunscreened without Landlord's prior consent. Tenant shall abide by Landlord's regulations concerning the opening and closing of window coverings.

23. Tenant shall not obstruct any sashes, sash doors, skylights, windows or doors that reflect or admit light or air into the halls, passageways or other public places in the Building, nor shall Tenant place any bottles, parcels or other articles on the windowsills.

24. Tenant must comply with requests by Landlord concerning the informing of their employees of items of importance to the Landlord.

25. All office equipment of an electrical or mechanical nature shall be placed by Tenant in the Premises in settings approved by Landlord, to absorb or prevent any vibration, noise or annoyance.

26. Tenant shall not use any hand trucks except those equipped with rubber tires and rubber side guards.

27. No auction, liquidation, fire sale, going-out-of-business or bankruptcy sale shall be conducted in the Premises without Landlord's prior consent.

28. Tenant shall not (a) use any name of the Building or Project for any purpose other than to identify the address of the business to be conducted by Tenant in the Premises, (b) use any image of the Building or Project in any advertising or other publicity without Landlord's prior consent, or (c) use any name or image of the Building or Project in any manner that would infringe any trade name, trade mark, copyright or similar right of Landlord or any third party in or to any name or image of the Building or Project. Without limiting the foregoing, Tenant shall not, in any signage displayed at the Building or Project, on its website, or in any other advertising or promotional material, identify, describe, or refer to itself or its business as "Kura Oncology, Inc. Highlands Corporate Center South Plaza" or "Kura Oncology, Inc. At Highlands Corporate Center South Plaza."

29. Landlord has no obligation to allow any particular telecommunication service provider to have access to the Building or to the Premises. If Landlord permits access, Landlord may condition the access upon the payment to Landlord by the service provider of fees assessed by Landlord in Landlord's sole discretion.

Landlord may from time to time modify or supplement these Rules and Regulations in a manner that, in Landlord's reasonable judgment, is appropriate for the management, safety, care and cleanliness of the Premises, the Building, the Common Areas and the Project, for the preservation of good order therein, and for the convenience of other occupants and tenants thereof, provided that no such modification or supplement shall materially reduce Tenant's rights or materially increase Tenant's obligations hereunder. Landlord may waive any of these Rules and Regulations for the benefit of any tenant, but no such waiver shall be construed as a waiver of such Rule and Regulation in favor of any other tenant nor prevent Landlord from thereafter enforcing such Rule and Regulation against any tenant. Notwithstanding the foregoing, no rule that is added to the initial Rules and Regulations shall be enforced against Tenant in a manner that unreasonably discriminates in favor of any other similarly situated tenant.

**EXHIBIT F**

**HIGHLANDS CORPORATE CENTER SOUTH PLAZA**

**ADDITIONAL PROVISIONS**

1     **PARKING.** Tenant may park in the Building’s parking facilities (the “**Parking Facility**”), in common with other tenants of the Building, upon the following terms and conditions. Tenant shall not use more than the number of unreserved and/or reserved parking spaces set forth in Section 1.8 of the Lease. Tenant shall pay Landlord, in accordance with Section 3 of the Lease, any fees for the parking spaces described in Section 1.8 of the Lease. Tenant shall comply with all rules and regulations established by Landlord from time to time for the orderly operation and use of the Parking Facility, including any sticker or other identification system and the prohibition of vehicle repair and maintenance activities in the Parking Facility. Landlord may, in its discretion, allocate and assign parking passes among Tenant and the other tenants in the Building. Tenant’s use of the Parking Facility shall be at Tenant’s sole risk, and Landlord shall have no liability for any personal injury or damage to or theft of any vehicles or other property occurring in the Parking Facility or otherwise in connection with any use of the Parking Facility by Tenant or its employees or invitees. Landlord may alter the size, configuration, design, layout or any other aspect of the Parking Facility, and, in connection therewith, temporarily deny or restrict access to the Parking Facility, in each case without abatement of Rent or liability to Tenant. Landlord may delegate its responsibilities hereunder to a parking operator, in which case (i) such parking operator shall have all the rights of control reserved herein by Landlord, (ii) Tenant shall enter into a parking agreement with such parking operator, (iii) Tenant shall pay such parking operator, rather than Landlord, any charge described in Section 1.8 of the Lease for the parking spaces, and (iv) Landlord shall have no liability for claims arising through acts or omissions of such parking operator except to the extent caused by Landlord’s negligence or willful misconduct. Tenant’s parking rights under this Section 1 are solely for the benefit of Tenant’s employees and invitees and such rights may not be transferred without Landlord’s prior consent, except pursuant to a Transfer permitted under Section 13 of the Lease. For the avoidance of doubt, nothing herein shall be deemed to limit Landlord’s right to charge visitors a fee to use any parking spaces other than those described in Section 1.8 of the Lease.

2     **CALIFORNIA CIVIL CODE SECTION 1938.**

Pursuant to California Civil Code § 1938(a), Landlord hereby states that the Premises have not undergone inspection by a Certified Access Specialist (CASp) (defined in California Civil Code § 55.52). Accordingly, pursuant to California Civil Code § 1938(e), Landlord hereby further states as follows:

A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

In accordance with the foregoing, Landlord and Tenant agree that if Tenant obtains a CASp inspection of the Premises, then Tenant shall pay (i) the fee for such inspection, and (ii) except as may be otherwise expressly provided in this Lease, the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises.

3     **RESERVED.**

4     **EXTENSION OPTION.**

4.1     **Grant of Option; Conditions.** Tenant shall have the right to extend the Term (the “**Extension Option**”) for one additional period of 5 years commencing on the day following the Expiration Date of the initial Term and ending on the 5th anniversary of the Expiration Date (the “**Extension Term**”), if:

4.1.1     Landlord receives irrevocable and unconditional written notice of exercise (“**Extension Notice**”) not less than 9 full calendar months prior to the expiration of the initial Term and not more than 12 full calendar months prior to the expiration of the initial Term; and

- 4.1.2 Tenant is not in Default under the Lease beyond any applicable cure periods at the time that Tenant delivers its Extension Notice; and
- 4.1.3 Not more than 25% of the Premises is sublet (other than pursuant to a Permitted Transfer, as defined in Section 13.8 of the Lease) at the time that Tenant delivers its Extension Notice; and
- 4.1.4 The Lease has not been assigned (other than pursuant to a Permitted Transfer, as defined in Section 13.8 of the Lease) prior to the date that Tenant delivers its Extension Notice.

4.2 **Terms Applicable to Premises During Extension Term.**

- 4.2.1 The initial Base Rent rate per rentable square foot for the Premises during the Extension Term shall equal the Prevailing Market (hereinafter defined) rate per rentable square foot for the Premises. Base Rent during the Extension Term shall increase, if at all, in accordance with the increases assumed in the determination of Prevailing Market rate. Base Rent attributable to the Premises shall be payable in monthly installments in accordance with the terms and conditions of the Lease.
- 4.2.2 Tenant shall pay Additional Rent (i.e. Taxes and Expenses) for the Premises during the Extension Term in accordance with the Lease, and the manner and method in which Tenant reimburses Landlord for Tenant's share of Taxes and Expenses and the Base Year applicable to such matter, shall be some of the factors considered in determining the Prevailing Market rate for the Extension Term.

- 4.3 **Definition of the Prevailing Market.** For purposes hereof, "**Prevailing Market**" shall mean the arms length fair market annual rental rate per rentable square foot under renewal leases and amendments entered into on or about the date on which the Prevailing Market is being determined hereunder for space comparable to the Premises in the Building and office buildings comparable to the Building on High Bluff Drive and El Camino Real in the Del Mar Heights submarket of San Diego, California (the "**Comparable Market**"). The determination of the Prevailing Market shall take into account any material economic differences between the terms of this Lease and any comparison lease, such as rent abatements, construction costs and other concessions, the term for such lease, and the manner, if any, in which the landlord under any such lease is reimbursed for operating expenses and taxes. Notwithstanding the foregoing, space leased under any of the following circumstances shall not be considered to be comparable for purposes hereof: (i) the lease term is for less than 5 years or more than 7 years, (ii) the space is encumbered by the option rights of another tenant, or (iii) the space has a lack of windows and/or an awkward or unusual shape or configuration. The foregoing is not intended to be an exclusive list of space that will not be considered to be comparable.

- 4.4 **Effect of Failure to Give Notice; Arbitration Procedure.** Tenant shall exercise the Extension Option by giving the Landlord the Extension Notice. If Tenant fails to give the Extension Notice to Landlord within the time period described above, then the Extension Option shall be null and void and of no further force or effect. Within 30 days of receiving Tenant's Extension Notice, Landlord shall give Tenant notice of Landlord's determination of the Prevailing Market rate for the Extension Term (the "**Landlord's Determination Notice**"). If Tenant disagrees with Landlord's determination of the Prevailing Market rate, Landlord and Tenant shall attempt to agree on the Prevailing Market rate. If the parties do not so agree on the Prevailing Market rate within 30 days of the date of Landlord's Determination Notice, Landlord and Tenant shall submit the determination of the Prevailing Market rate to binding arbitration unless the parties otherwise mutually agree in their respective sole discretion. In such event, Landlord and Tenant shall attempt to agree on an arbitrator within 10 days after the expiration of such 30 day period. If they fail, after good faith efforts, to agree on an arbitrator within such 10 day period, Landlord and Tenant shall each appoint a reputable commercial leasing broker as arbitrator, each of whom shall have at least 10 years' active and current experience in the commercial real estate industry and the High Bluff Drive and El Camino Real leasing market with working knowledge of current rental rates and leasing practices related to buildings similar to the Building. Such an appointment shall be signified in writing by each party to the other. If either party shall fail to appoint an arbitrator within a period of 10 days after written notice from the other party to make such appointment, the sole arbitrator appointed shall make the determination of the Prevailing Market rate in the same manner provided below as though it were the third arbitrator. If both parties appoint an arbitrator, the arbitrators so appointed shall appoint a third arbitrator, who is a reputable commercial leasing broker and has at least 10 years' active and current experience in the commercial real estate industry and in the

High Bluff Drive and El Camino Real leasing market with working knowledge of current rental rates and leasing practices related to buildings similar to the Building, within 10 days after the appointment of the second arbitrator. Each of Landlord and Tenant shall furnish each of the three arbitrators with a copy of their respective final determination of the Prevailing Market rate. The third arbitrator shall proceed with all reasonable dispatch to determine whether Landlord's final determination of the Prevailing Market rate or Tenant's final determination of the Prevailing Market rate, most closely reflects the Prevailing Market rate and in no event shall the arbitrator have the right (i) to average the final determination of the Prevailing Market rate of Landlord and Tenant or (ii) to choose another rate. The decision of such third arbitrator shall in any event be rendered within 30 days after his/her appointment, or within such other period as the parties shall agree, and such decision shall be in writing and in duplicate, one counterpart thereof to be delivered to each of the parties. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association (or its successor) and applicable Law and this Section, which shall govern to the extent of any conflict between this Section and the rules of the American Arbitration Association, and the decision of the third arbitrator shall be reviewable only to the extent provided by the rules of the American Arbitration Association and shall otherwise be binding, final and conclusive on the parties. Each party shall pay the fees of the arbitrator it chose and the fees of its counsel and the losing party shall pay for the fees of the third arbitrator and the reasonable and necessary expenses incident to the proceedings; provided however, if a party fails to appoint an arbitrator, the fees of the sole arbitrator shall be split between the two parties equally.

- 4.5 **Extension Amendment.** If Tenant is entitled to and validly exercises its Extension Option, Landlord shall prepare an amendment (the "**Extension Amendment**") to reflect changes in the Base Rent, Term, Expiration Date and other appropriate terms. The Extension Amendment shall be (i) sent to Tenant within a reasonable time after determination of the Prevailing Market rate, and (ii) executed by Tenant (or reasonable comments made) and returned to Landlord within 15 days after the Extension Amendment is delivered to Tenant by Landlord. Notwithstanding the foregoing, an otherwise valid exercise of the Extension Option shall be fully effective whether or not the Extension Amendment is executed.
- 4.6 **Time of the Essence.** Time is of the essence with respect to all of the time periods set forth in this Section 4.
- 4.7 **Personal to Tenant.** Notwithstanding anything herein to the contrary, Tenant's Extension Option is personal to Tenant and in no event shall such Extension Option be assignable (other than pursuant to a Permitted Transfer, as defined in Section 13.8 of the Lease).

5 **RIGHT OF FIRST OFFER.**

5.1 **Grant of Option; Conditions.**

5.1.1 Subject to the terms of this Section 5, Tenant shall have a one time right of first offer ("**Right of First Offer**") with respect to any space which may become "Available" (as defined below) on the third (3rd) floor of the Building (each, a "**Potential Offering Space**"). Tenant's Right of First Offer shall be exercised as follows: At any time after Landlord has determined that a Potential Offering Space has become Available (defined below), but before leasing such Potential Offering Space to a third party, Landlord, subject to the terms of this Section 5, shall provide Tenant with a written notice (for purposes of this Section 5, an "**Advice**") advising Tenant of the material terms on which Landlord is prepared to lease such Potential Offering Space (sometimes referred to herein as an "**Offering Space**") to Tenant, which terms shall be consistent with Section 5.2 below. For purposes hereof, a Potential Offering Space shall be deemed to become "**Available**" as follows: (i) if such Potential Offering Space is not leased to a third party as of the date of mutual execution and delivery of this Lease, such Potential Offering Space shall be deemed to become Available when Landlord has located a prospective tenant that may be interested in leasing such Potential Offering Space; and (ii) if such Potential Offering Space is leased to a third party tenant as of the date of mutual execution and delivery of this Lease, such Potential Offering Space shall be deemed to become Available when Landlord has determined that such third-party tenant, and any occupant of such Potential Offering Space claiming under such third-party tenant, will not extend or renew the term of its lease, or enter into a new lease, for such Potential Offering Space. Upon receiving an Advice, Tenant may lease the Offering Space, in its entirety only, on the terms set forth in the Advice, by delivering to Landlord a written notice (for purposes of this Section 5, a "**Notice of Exercise**") within five (5) days after receiving the Advice.

- 5.1.2 If Tenant receives an Advice but does not deliver a Notice of Exercise within the period of time required under Section 5.1.1 above, Landlord may lease the Offering Space to any party on any terms determined by Landlord in its sole and absolute discretion; provided, however, that if Landlord intends to enter into a lease upon terms which are more than ten percent (10%) more favorable to a third (3rd) party tenant than those terms proposed by Landlord in the Advice (blending all concessions on a straight-line basis over the applicable lease terms), Landlord shall first deliver written notice to Tenant (“**Second Chance Notice**”) providing Tenant with the opportunity to lease the Offering Space on such more favorable terms. Tenant’s failure to elect to lease the Offering Space upon such more favorable terms by written notice to Landlord within three (3) business days after Tenant’s receipt of such Second Chance Notice from Landlord shall be deemed to constitute Tenant’s election not to lease such space upon such more favorable terms, in which case Landlord shall be entitled to lease such space to any third (3rd) party on terms no more favorable to the third (3rd) party than those set forth in the Second Chance Notice. If Landlord does lease such First Offer Space to a third (3rd) party tenant pursuant to the terms and conditions of this 5.1.2 above, Tenant shall have no further right to lease such First Offer Space.
- 5.1.3 Notwithstanding any contrary provision hereof, (i) Landlord shall not be required to provide Tenant with an Advice if any of the following conditions exists when Landlord would otherwise deliver the Advice; and (ii) if Tenant receives an Advice from Landlord, Tenant shall not be entitled to lease the Offering Space based on such Advice if any of the following conditions exists:
- A. a Default exists;
  - B. all or any portion of the Premises is sublet (other than to an Affiliate of Tenant);
  - C. the Lease has been assigned (other than pursuant to a Permitted Transfer); or
  - D. Tenant is not occupying the Premises.

If, by operation of the preceding sentence, Landlord is not required to provide Tenant with an Advice, or Tenant, after receiving an Advice, is not entitled to lease the Offering Space based on such Advice, then Landlord may lease the Offering Space to any party on any terms determined by Landlord in its sole and absolute discretion.

## 5.2 **Terms for Offering Space.**

- 5.2.1 The term for the Offering Space shall be the greater of (i) coterminous with the term for the balance of the Premises, or (ii) 36 full calendar months, together with any partial calendar month occurring at the beginning of such term.
- 5.2.2 The term for the Offering Space shall commence on the commencement date stated in the Advice and thereupon the Offering Space shall be considered a part of the Premises subject to the provisions of the Lease; provided, however, that the provisions of the Advice (including the provision of the Advice establishing the expiration date for the Offering Space) shall prevail to the extent they conflict with the provisions of the Lease.
- 5.2.3 Tenant shall pay Base Rent and Additional Rent for the Offering Space in accordance with the provisions of the Advice, which shall reflect the Prevailing Market (defined in Section 5.5 below) rate for the Offering Space as determined in Landlord’s reasonable judgment.
- 5.2.4 Except as may be otherwise provided in the Advice, (i) the Offering Space shall be accepted by Tenant in its configuration and condition existing when Landlord tenders possession of the Offering Space to Tenant, without any obligation on the part of Landlord to perform or pay for any alterations or improvements thereto; and (ii) if Landlord is delayed in delivering possession of the Offering Space by any holdover or unlawful possession of the Offering Space by any party, Landlord shall use reasonable efforts to obtain possession of the Offering Space and any obligation of Landlord to tender possession of, permit entry to, or perform

alterations to the Offering Space shall be deferred until after Landlord has obtained possession of the Offering Space.

5.3 **Termination of Right of First Offer; One Time Right.**

5.3.1 Notwithstanding any contrary provision hereof, Landlord shall not be required to provide Tenant with an Advice, and Tenant shall not be entitled to exercise its Right of First Offer, after the date of expiration or earlier termination of the Lease.

5.3.2 Notwithstanding any contrary provision hereof, Landlord shall not be required to provide Tenant with an Advice, and Tenant shall not be entitled to exercise its Right of First Offer, with respect to any Potential Offering Space after the date, if any, on which Landlord becomes entitled to lease such Potential Offering Space to a third party under Section 5.1.2 or 5.1.3 above.

5.4 **Offering Amendment.** If Tenant validly exercises its Right of First Offer, Landlord, within a reasonable period of time thereafter, shall prepare and deliver to Tenant an amendment (the “**Offering Amendment**”) adding the Offering Space to the Premises on the terms set forth in the Advice and reflecting the changes in the Base Rent, the rentable square footage of the Premises, Tenant’s Share, and other appropriate terms in accordance with this Section 5. Tenant shall execute and return (or provide Landlord with reasonable written objections to) the Offering Amendment within 15 days after receiving it, but an otherwise valid exercise of the Right of First Offer shall be fully effective whether or not the Offering Amendment is executed.

5.5 **Definition of Prevailing Market.** For purposes of this Section 5, “**Prevailing Market**” means the arms-length, fair-market, annual rental rate per rentable square foot, under renewal and expansion leases and amendments entered into on or about the date on which the Prevailing Market is being determined hereunder, for space comparable to the Offering Space in the Comparable Market (as defined in Section 4.3 above). The determination of Prevailing Market shall take into account (i) any material economic differences between the terms of the Lease and any comparison lease or amendment, such as rent abatements, construction costs and other concessions, and the manner, if any, in which the landlord under any such lease is reimbursed for operating expenses and taxes; and (ii) any material differences in configuration or condition between the Offering Space and any comparison space.

5.6 **Subordination.** Notwithstanding any contrary provision hereof, Tenant’s Right of First Offer shall be subject and subordinate to the expansion rights (whether such rights are designated as a right of first offer, right of first refusal, expansion option or otherwise) of any tenant of the Project existing on the date hereof.

**EXHIBIT G**

**HIGHLANDS CORPORATE CENTER SOUTH PLAZA**

**JUDICIAL REFERENCE**

IF THE JURY-WAIVER PROVISIONS OF SECTION 23.8 OF THE LEASE ARE NOT ENFORCEABLE UNDER CALIFORNIA LAW, THE PROVISIONS SET FORTH BELOW SHALL APPLY.

It is the desire and intention of the parties to agree upon a mechanism and procedure under which controversies and disputes arising out of the Lease or related to the Premises will be resolved in a prompt and expeditious manner. Accordingly, except with respect to actions for unlawful or forcible detainer or with respect to the prejudgment remedy of attachment, any action, proceeding or counterclaim brought by either party hereto against the other (and/or against its officers, directors, employees, agents or subsidiaries or affiliated entities) on any matters arising out of or in any way connected with the Lease, Tenant's use or occupancy of the Premises and/or any claim of injury or damage, whether sounding in contract, tort, or otherwise, shall be heard and resolved by a referee under the provisions of the California Code of Civil Procedure, Sections 638 — 645.1, inclusive (as same may be amended, or any successor statute(s) thereto) (the "**Referee Sections**"). Any fee to initiate the judicial reference proceedings and all fees charged and costs incurred by the referee shall be paid by the party initiating such procedure (except that if a reporter is requested by either party, then a reporter shall be present at all proceedings where requested and the fees of such reporter – except for copies ordered by the other parties – shall be borne by the party requesting the reporter); provided however, that allocation of the costs and fees, including any initiation fee, of such proceeding shall be ultimately determined in accordance with Section 23.6 of the Lease. The venue of the proceedings shall be in the county in which the Premises are located. Within 10 days of receipt by any party of a request to resolve any dispute or controversy pursuant to this **Exhibit G**, the parties shall agree upon a single referee who shall try all issues, whether of fact or law, and report a finding and judgment on such issues as required by the Referee Sections. If the parties are unable to agree upon a referee within such 10-day period, then any party may thereafter file a lawsuit in the county in which the Premises are located for the purpose of appointment of a referee under the Referee Sections. If the referee is appointed by the court, the referee shall be a neutral and impartial retired judge with substantial experience in the relevant matters to be determined, from Jams, ADR Services, Inc. or a similar mediation/arbitration entity approved by each party in its sole and absolute discretion. The proposed referee may be challenged by any party for any of the grounds listed in the Referee Sections. The referee shall have the power to decide all issues of fact and law and report his or her decision on such issues, and to issue all recognized remedies available at law or in equity for any cause of action that is before the referee, including an award of attorneys' fees and costs in accordance with the Lease. The referee shall not, however, have the power to award punitive damages, nor any other damages that are not permitted by the express provisions of the Lease, and the parties waive any right to recover any such damages. The parties may conduct all discovery as provided in the California Code of Civil Procedure, and the referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge, with rights to regulate discovery and to issue and enforce subpoenas, protective orders and other limitations on discovery available under California Law. The reference proceeding shall be conducted in accordance with California Law (including the rules of evidence), and in all regards, the referee shall follow California Law applicable at the time of the reference proceeding. The parties shall promptly and diligently cooperate with one another and the referee, and shall perform such acts as may be necessary to obtain a prompt and expeditious resolution of the dispute or controversy in accordance with the terms of this **Exhibit G**. In this regard, the parties agree that the parties and the referee shall use best efforts to ensure that (a) discovery be conducted for a period no longer than six (6) months from the date the referee is appointed, excluding motions regarding discovery, and (b) a trial date be set within nine (9) months of the date the referee is appointed. In accordance with Section 644 of the California Code of Civil Procedure, the decision of the referee upon the whole issue must stand as the decision of the court, and upon the filing of the statement of decision with the clerk of the court, or with the judge if there is no clerk, judgment may be entered thereon in the same manner as if the action had been tried by the court. Any decision of the referee and/or judgment or other order entered thereon shall be appealable to the same extent and in the same manner that such decision, judgment, or order would be appealable if rendered by a judge of the superior court in which venue is proper hereunder. The referee shall in his/her statement of decision set forth his/her findings of fact and conclusions of law. The parties intend this general reference agreement to be specifically enforceable in accordance with the Code of Civil Procedure. Nothing in this **Exhibit G** shall prejudice the right of any party to obtain provisional relief or other equitable remedies from a court of competent jurisdiction as shall otherwise be available under the Code of Civil Procedure and/or applicable court rules.

## KURA ONCOLOGY, INC.

February 5, 2020

Dr. Antonio Gualberto

**Re: Separation Agreement**

Dear Antonio:

This letter sets forth the terms of the separation agreement (the “**Agreement**”) that Kura Oncology, Inc. (the “**Company**”) is offering to you to aid in your employment transition.

**1. Resignation.** You informed us that you intend to resign from the Company without Good Reason and you thus acknowledge and agree that you are not entitled to any severance benefits under your Amended and Restated Executive Employment Agreement, effective as of January 29, 2016. The Company hereby accepts your resignation effective as of February 9, 2020, which will be your last day of employment (the “**Separation Date**”). For purposes of clarity, as of the Separation Date, you will no longer hold any employment or officer positions with the Company or any of its related affiliates, parents or subsidiaries. The Company will pay you all accrued salary, and any and all accrued and unused paid time off earned through the Separation Date, subject to required payroll deductions and withholdings. You are entitled to these payments even if you do not sign this Agreement.

**2. Health Insurance.** Your health insurance benefits through the Company will continue through February 29, 2020. To the extent provided by the federal COBRA law or, if applicable, state insurance laws (collectively, “**COBRA**”), and by the Company’s current group health insurance policies, you may be eligible to continue coverage under such group health plan (or to convert to an individual policy), following such date at your own expense. No provision of this Agreement will affect your continuation coverage rights under COBRA. You will be provided with a separate notice describing your rights and obligations under COBRA laws, and any rights to convert to an individual policy, on or after the Separation Date

**3. Transition Agreement.** If you timely sign, date and return this Agreement to the Company within twenty-one (21) days, allow it to become effective, and comply fully with your obligations hereunder (including, but not limited to, your continuing obligations in your Confidentiality Agreement and your obligations to timely return all Company property as detailed in Sections 5 and 6 below), you and the Company agree to a transition services relationship on the following terms and conditions (the “**Advisory Relationship**”):

**3.1 Scope of the Advisory Relationship.**

**(a)** You agree to review and provide feedback on the currently planned publications regarding tipifarnib study results. You will only be requested to review publications regarding data and other findings for tipifarnib which existed or were the results of clinical activities that occurred prior to the Separation Date and to which you would have had knowledge of before the Separation Date. The parties specifically agree and acknowledge that you will not be requested to review any publications which contain findings or data that did not exist as of or

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were not the result of your work prior to the Separation Date and to which you would not have had access to before the Separation Date.

(b) You agree to remain reasonably available to answer periodic questions that may arise in connection with tipifarnib studies or intellectual property regarding work that you were involved in before the Separation Date and solely relating to tipifarnib findings and data which existed or are the results of clinical activities that occurred prior to the Separation Date and to which you would have had access before the Separation Date. The parties specifically agree and acknowledge that you will not be requested to respond to questions regarding any activities, findings or data that did not exist as of, or result from your work, prior to the Separation Date and to which you would not have had access to before the Separation Date.

(c) The services outlined in this Section 3.1 shall collectively be referred to as “**Advisory Services.**”

(d) All requests for Advisory Services will come from Troy Wilson, Ph.D., J.D. The Advisory Services may be completed at a location of your choosing. You will perform all requests in a reasonably timely fashion, subject to your other work obligations for any other employer, and you will exercise the highest degree of professionalism and utilize your expertise and creative talents in performing the Advisory Services. You and the Company agree to work cooperatively and in good faith in connection with your performance of the Advisory Services. Company will attempt to schedule any such Advisory Services at times and in a manner reasonably convenient to you, with due regard for your personal and other business obligations.

**3.2 Transition Period.** The Advisory Relationship will be deemed to have commenced on the Separation Date and will continue until the date that is one (1) year after the Separation Date; unless the Advisory Relationship is terminated earlier pursuant to Section 3.9 below ( such term of the Advisory Relationship, the “**Transition Period**”). The Transition Period can only be extended beyond this time period by a writing signed by you and a member of the Company’s executive team.

**3.3 Consideration for Advisory Services. Equity Vesting.** The Company will consider your change of status (effective as of the Separation Date), and your Advisory Services during the Transition Period, to constitute “Continuous Service” as defined in paragraph 13 (n) of the Company’s Amended and Restated 2014 Equity Incentive Plan (the “Equity Plan”), and therefore your outstanding equity awards will continue to vest and, as applicable, be exercisable, in accordance with their terms during the Transition Period; *provided that* any stock options that are “incentive stock options” under Section 422 of the Internal Revenue Code shall, upon the three (3) month anniversary of the Separation Date, cease to be eligible for the tax treatment afforded to “incentive stock options.” Vesting of your equity awards will cease at the termination of the Transition Period and your rights to exercise or otherwise acquire any vested shares shall be governed and controlled by the Equity Plan and your applicable grant documents (the “**Equity Documents**”). All terms, conditions and limitations applicable to your equity awards will continue to be subject to the applicable Equity Documents. For the avoidance of doubt, if you do not satisfy the Obligations set forth in Section 3.1, or if you do not enter into this

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Advisory Relationship, your “Continuous Service” for purposes of your equity awards will terminate, and the vesting of your outstanding equity awards will cease, on the Separation Date.

**3.4 Independent Relationship.** Nothing in this Agreement is intended to, or should be construed to, create a partnership, agency, joint venture or employment relationship after the Separation Date. You will not be entitled to any of the benefits that the Company may make available to its employees, including but not limited to, group health or life insurance, or retirement benefits, and you acknowledge and agree that your relationship with the Company during the Transition Period will not be subject to the Fair Labor Standards Act or any other state laws or regulations governing employment relationships.

**3.5 Limitations on Authority.** You will have no responsibilities or authority as a consultant to the Company other than as provided above. You will have no authority to bind the Company to any contractual obligations, whether written, oral or implied, except with the written authorization of a member of the Company’s executive team. You agree not to represent or purport to represent the Company in any manner whatsoever to any third party, unless authorized by the Company in writing, to do so.

**3.6 Confidential Information.** You agree that, during the Transition Period and thereafter, you will not use or disclose, other than in furtherance of the Advisory Services, any privileged, confidential or proprietary information or materials of the Company, including any privileged, confidential or proprietary information that you obtained or developed during your employment with the Company, or that you obtain or develop in the course of performing the Advisory Services. Any and all work product you create in the course and scope of performing the Advisory Services will be the sole and exclusive property of the Company. You hereby assign to the Company all right, title, and interest in all inventions, techniques, processes, materials, and other intellectual property developed in the course and scope of performing the Advisory Services. Notwithstanding the foregoing, pursuant to 18 U.S.C. Section 1833(b), you shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that: (1) is made in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (2) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

**3.7 Other Work Activities / Representations.** Throughout the Advisory Period, you retain the right to engage in employment, consulting, or other work relationships in addition to your Advisory Services for the Company, so long as such activities do not present a conflict of interest with the Company’s business. In the event that it unclear to you whether a particular activity would breach this commitment, you agree to contact the Company’s Board to seek clarification.

**3.8 No Solicitation of Employees, Consultants or Contractors.** To the extent permitted by applicable law, you agree that during the Transition Period and for the one year period after the Transition Period ends for any reason, including but not limited to termination by you or the Company, you will not, as an officer, director, employee, consultant, owner, partner, or in any other capacity, either directly or through others (except on behalf of

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Company) solicit, induce, or encourage any person known to you to be an employee, consultant, or independent contractor of Company to terminate his or her relationship with the Company.

**3.9 Early Termination of Transition Period.** If, during the Transition Period, the Company reasonably believes that you have failed to provide the Advisory Services or otherwise breached any obligation you may owe to the Company, the Company may terminate the Transition Period upon written notice to you. Additionally, you or the Company may terminate the Transition Period, for any reason, upon 30 days' written notice to the other party.

**4. No Other Compensation or Benefits.** You acknowledge that, except as expressly provided in this Agreement, you have not earned and will not receive from the Company any additional compensation (including base salary, bonus, bonus advances, incentive compensation, commissions, or equity), severance, or benefits prior to, on, or after the Separation Date.

**5. Confidentiality Agreement.** You acknowledge and reaffirm your continuing obligations owed to the Company under your executed Proprietary Information and Invention Assignment Agreement attached hereto as Exhibit A (the "**Confidentiality Agreement**"), which include but are not limited to your continuing obligations not to use or disclose any confidential or proprietary information of the Company.

**6. Return of Company Property.** You agree to immediately return to the Company all Company documents (and all copies thereof) and other Company property that you have in your possession or control, including but not limited to any materials of any kind that contain or embody any proprietary or confidential information of the Company or its affiliates (and all reproductions thereof in whole or in part). You further represent that you have made a diligent search to locate any such documents, property and information. In addition, if you have used any personally owned computer, server, e-mail system, mobile phone, or portable electronic device (*e.g.*, iPhone, iPad, Android) (collectively, "**Personal Systems**") to receive, store, prepare or transmit any Company or affiliate confidential or proprietary data, materials or information, then you must immediately provide the Company with a computer-useable copy of all such information and then permanently delete and expunge all such Company or affiliate confidential or proprietary information from such Personal Systems without retaining any copy or reproduction in any form.

**7. No Disparagement.** You agree not to disparage the Company and its affiliates, and the Company's and its affiliates' officers, directors, employees, stockholders, investors and agents, in any manner likely to be harmful to them or their business, business reputation or personal reputation. Nothing in this Section 7 or this Agreement will be interpreted or construed to prevent you from giving truthful testimony to any law enforcement officer, court, administrative proceeding or as part of an investigation by any Government Agency (as defined in Section 10(c) below). In addition, nothing in this Section 7 or this Agreement is intended to prohibit or restrain you in any manner from making disclosures that are protected under federal law or regulation or under other applicable law or regulation.

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**8. No Admissions.** The promises and payments in consideration of this Agreement shall not be construed to be an admission of any liability or obligation by either party to the other party, and neither party makes any such admission.

**9. Cooperation.** You agree to cooperate fully with the Company and its affiliates in connection with its actual or contemplated defense, prosecution, or investigation of any claims or demands by or against third parties, or other matters arising from events, acts, or failures to act that occurred during the period of your employment by the Company. Such cooperation includes, without limitation, making yourself available to the Company and its affiliates upon reasonable notice, without subpoena, to provide complete, truthful and accurate information in witness interviews, depositions, and trial testimony. The Company will reimburse you for reasonable out-of-pocket expenses you incur in connection with any such cooperation (excluding forgone wages, salary, or other compensation) and will make reasonable efforts to accommodate your scheduling needs.

**10. Release of Claims.**

**(a) General Release.** In exchange for the consideration provided to you under this Agreement to which you would not otherwise be entitled, you hereby generally and completely release the Company and its current and former directors, officers, employees, stockholders, partners, agents, attorneys, predecessors, successors, parents, direct and indirect subsidiaries, insurers, affiliates, investors and assigns (collectively, the “**Released Parties**”) of and from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to or on the date you sign this Agreement (collectively, the “**Released Claims**”).

**(b) Scope of Release.** The Released Claims include, but are not limited to: (i) all claims arising out of or in any way related to your employment with or services for the Company or its affiliates, or the termination of that employment or those services; (ii) all claims related to your compensation or benefits from the Company or its affiliates, including salary, bonuses, incentive compensation, commissions, paid time off, expense reimbursements, severance benefits, notice rights, fringe benefits, stock, restricted stock, stock options, or any other ownership interests in the Company or its affiliates; (iii) all claims for breach of contract (oral or written), wrongful termination, and breach of the implied covenant of good faith and fair dealing; (iv) all tort claims, including claims for fraud, misrepresentation, defamation, emotional distress, and discharge in violation of public policy; and (v) all constitutional, federal, state, and local statutory and common law claims, including claims for discrimination, harassment, retaliation, attorneys’ fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990 (as amended), the federal Age Discrimination in Employment Act of 1967 (as amended) (the “**ADEA**”), the California Labor Code (as amended), and the California Fair Employment and Housing Act (as amended).

**(c) Excluded Claims.** Notwithstanding the foregoing, the following are not included in the Released Claims (the “**Excluded Claims**”): (i) any rights or claims for indemnification you may have pursuant to any written indemnification agreement with the Company or its affiliates to which you are a party, the charter, bylaws, or operating agreements of the Company or its affiliates, or under applicable law; (ii) any rights or claims which are not

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waivable as a matter of law; and (iii) any claims for breach of this Agreement. In addition, nothing in this Agreement prevents you from filing a charge or complaint with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission or any other federal, state or local governmental agency or commission (collectively, the “**Government Agencies**”). This Agreement does not limit your ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agencies. While this Agreement does not limit your right to receive an award for information provided to the Securities and Exchange Commission, you understand and agree that, to maximum extent permitted by law, you are otherwise waiving any and all rights you may have to individual relief based on any claims that you have released and any rights you have waived by signing this Agreement. You represent and warrant that, other than the Excluded Claims, you are not aware of any claims you have or might have against any of the Released Parties that are not included in the Released Claims.

(d) **ADEA Waiver.** You acknowledge that you are knowingly and voluntarily waiving and releasing any rights you may have under the ADEA (the “**ADEA Waiver**”), and that the consideration given for this ADEA Waiver is in addition to anything of value to which you are already entitled. You further acknowledge that you have been advised, as required by the ADEA, that: (i) your ADEA Waiver does not apply to any rights or claims that may arise after the date that you sign this Agreement; (ii) you should consult with an attorney prior to signing this Agreement; (iii) you have 21 calendar days to consider this Agreement (although you may choose voluntarily to sign it earlier, but no earlier than the Separation Date); (iv) you have seven calendar days following the date you sign this Agreement to revoke your acceptance (by providing written notice of your revocation to Troy E. Wilson, Ph.D., J.D., the Company’s President and Chief Executive Officer); and (v) this Agreement will not be effective until the date upon which the revocation period has expired unexercised, which will be the eighth calendar day after the date that this Agreement is signed by you provided that you do not revoke your acceptance (the “**Effective Date**”).

11. **Waiver of Unknown Claims. YOU UNDERSTAND THAT THIS AGREEMENT INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.** In giving the releases set forth in this Agreement, which include claims which may be unknown to you at present, you acknowledge that you have read and understand Section 1542 of the California Civil Code which reads as follows: “**A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.**” You hereby expressly waive and relinquish all rights and benefits under that section and any law or legal principle of similar effect in any jurisdiction with respect to your release of claims herein, including but not limited to the release of unknown and unsuspected claims.

12. **Expense Reimbursements.** You should submit, within thirty (30) calendar days after the Separation Date, expense reports to the Company seeking reimbursement for any business expenses incurred through the Separation Date. The Company will reimburse you for these business expenses, pursuant to its standard policies and practices.

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**13. Representations.** You hereby represent that: you have been paid all compensation owed and for all time worked; you have received all the leave and leave benefits and protections for which you are eligible pursuant to applicable law or Company policy; and you have not suffered any on-the-job injury or illness for which you have not already filed a workers' compensation claim.

**14. General.** This Agreement, together with the Confidentiality Agreement, constitutes the complete, final and exclusive embodiment of the entire agreement between you and the Company with regard to the subject matter hereof and, for clarity, supersedes that certain Amended and Restated Executive Employment Agreement, effective as of January 29, 2016, by and between you and the Company with regard to the subject matter hereof. It is entered into without reliance on any promise or representation, written or oral, other than those expressly contained herein, and it supersedes any other agreements, promises, warranties or representations concerning its subject matter. This Agreement may not be modified or amended except in a writing signed by both you and a duly authorized officer of the Company. This Agreement will bind the heirs, personal representatives, successors and assigns of both you and the Company, and inure to the benefit of both you and the Company, their heirs, successors and assigns. If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, this determination shall not affect any other provision of this Agreement and the provision in question shall be modified so as to be rendered enforceable in a manner consistent with the intent of the parties insofar as possible under applicable law. This Agreement shall be construed and enforced in accordance with the laws of the State of California without regard to conflicts of law principles. Any ambiguity in this Agreement shall not be construed against either party as the drafter. Any waiver of a breach of this Agreement, or rights hereunder, shall be in writing and shall not be deemed to be a waiver of any successive breach or rights hereunder. This Agreement may be executed in counterparts which shall be deemed to be part of one original, and facsimile signatures and signatures transmitted by PDF shall be equivalent to original signatures.

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If this Agreement is acceptable to you, please sign below on or within 21 calendar days from the date you receive it from the Company (but no earlier than the Separation Date), and then promptly return the fully signed original to me. The Company's offer contained herein will automatically expire if we do not receive the fully signed Agreement from you within this timeframe.

We wish you the best in your future endeavors.

Sincerely,

**KURA ONCOLOGY, INC.**

By: /s/ Troy E. Wilson, Ph.D., J.D.

Name: Troy E. Wilson, Ph.D., J.D.

Title: President and CEO

Date: February 7, 2020

**Exhibit A – Confidentiality Agreement**

**UNDERSTOOD AND AGREED:**

/s/ Antonio Gualberto

Antonio Gualberto

February 5, 2020

Date

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**Exhibit A**

**CONFIDENTIALITY AGREEMENT**

**Consent of Independent Registered Public Accounting Firm**

We consent to the incorporation by reference in the following Registration Statements:

1. Registration Statement (Form S-3 Nos. 333-228172 and 333-232947) of Kura Oncology, Inc.,
2. Registration Statement (Form S-8 Nos. 333-203504 and 333-210260) pertaining to the Amended and Restated 2014 Equity Incentive Plan and the 2015 Employee Stock Purchase Plan of Kura Oncology, Inc., and
3. Registration Statement (Form S-8 Nos. 333-216683, 333-223591 and 333-230075) pertaining to the Amended and Restated 2014 Equity Incentive Plan of Kura Oncology, Inc.;

of our reports dated February 25, 2020, with respect to the financial statements of Kura Oncology, Inc. and the effectiveness of internal control over financial reporting of Kura Oncology, Inc. included in this Annual Report (Form 10-K) of Kura Oncology, Inc. for the year ended December 31, 2019.

/s/ Ernst & Young LLP

San Diego, California  
February 25, 2020





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

In connection with the Annual Report of Kura Oncology, Inc. (the "Company") on Form 10-K for the period ended December 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Troy E. Wilson, Ph.D., J.D., as President and Chief Executive Officer of the Company, and Marc Grasso, M.D. as Chief Financial Officer and Chief Business Officer, each hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

*/s/ Troy E. Wilson, Ph.D., J.D.*

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**Troy E. Wilson, Ph.D., J.D.**  
**President and Chief Executive Officer**

*/s/ Marc Grasso, M.D.*

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**Marc Grasso, M.D.**  
**Chief Financial Officer and Chief Business Officer**

Date: February 25, 2020

Date: February 25, 2020

This certification accompanies the Annual Report on Form 10-K to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Kura Oncology, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Annual Report on Form 10-K), irrespective of any general incorporation language contained in such filing.