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

FORM 10-Q

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

For the quarterly period ended September 30, 2017

or

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

For the transition period from to

Commission File Number: 0-24006

NEKTAR THERAPEUTICS

(Exact name of registrant as specified in its charter)

Delaware	**94-3134940**
(State or other jurisdiction of incorporation or organization)	**(IRS Employer Identification No.)**

455 Mission Bay Boulevard South
San Francisco, California 94158
(Address of principal executive offices)

415-482-5300
(Registrant's telephone number, including area code)

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted 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 and post such files). Yes ☒ No ☐

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

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐ (Do not check if a smaller reporting company)	Smaller reporting company	☐
Emerging growth company	☐		

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

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

The number of outstanding shares of the registrant's Common Stock, $0.0001 par value, was 157,467,703 on November 2, 2017.

NEKTAR THERAPEUTICS
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Forward-Looking Statements

This report includes “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended (Securities Act), and Section 21E of the Securities Exchange Act of 1934, as amended (Exchange Act). All statements other than statements of historical fact are “forward-looking statements” for purposes of this quarterly report on Form 10-Q, including any projections of market size, earnings, revenue, milestone payments, royalties, sales or other financial items, any statements of the plans and objectives of management for future operations (including, but not limited to, preclinical development, clinical trials and manufacturing), any statements related to our financial condition and future working capital needs, any statements regarding potential future financing alternatives, any statements concerning proposed drug candidates, any statements regarding the timing for the start or end of clinical trials or submission of regulatory approval filings, any statements regarding future economic conditions or performance, any statements regarding the success of our collaboration arrangements, timing of commercial launches and product sales levels by our collaboration partners and future payments that may come due to us under these arrangements, any statements regarding our plans and objectives to initiate or continue clinical trials, and any statements of assumptions underlying any of the foregoing. In some cases, forward-looking statements can be identified by the use of terminology such as “may,” “will,” “expects,” “plans,” “anticipates,” “estimates,” “potential” or “continue,” or the negative thereof or other comparable terminology. Although we believe that the expectations reflected in the forward-looking statements contained herein are reasonable, such expectations or any of the forward-looking statements may prove to be incorrect and actual results could differ materially from those projected or assumed in the forward-looking statements. Our future financial condition and results of operations, as well as any forward-looking statements, are subject to inherent risks and uncertainties, including, but not limited to, the risk factors set forth in Part II, Item 1A “Risk Factors” below and for the reasons described elsewhere in this quarterly report on Form 10-Q. All forward-looking statements and reasons why results may differ included in this report are made as of the date hereof and we do not intend to update any forward-looking statements except as required by law or applicable regulations. Except where the context otherwise requires, in this quarterly report on Form 10-Q, the “Company,” “Nektar,” “we,” “us,” and “our” refer to Nektar Therapeutics, a Delaware corporation, and, where appropriate, its subsidiaries.

Trademarks

The Nektar brand and product names, including but not limited to Nektar®, contained in this document are trademarks and registered trademarks of Nektar Therapeutics in the United States (U.S.) and certain other countries. This document also contains references to trademarks and service marks of other companies that are the property of their respective owners.

PART I: FINANCIAL INFORMATION

Item 1. Condensed Consolidated Financial Statements—Unaudited:

NEKTAR THERAPEUTICS
CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands, except par value)
(Unaudited)

	September 30, 2017	December 31, 2016
ASSETS		
Current assets:		
Cash and cash equivalents	$ 37,967	$ 59,640
Short-term investments	314,600	329,462
Accounts receivable, net	3,314	15,678
Inventory	13,654	11,109
Other current assets	13,260	10,063
Total current assets	382,795	425,952
Long-term investments	59,596	—
Property, plant and equipment, net	62,396	65,601
Goodwill	76,501	76,501
Other assets	767	817
Total assets	$ 582,055	$ 568,871
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 8,563	$ 2,816
Accrued compensation	19,088	18,280
Accrued clinical trial expenses	7,000	7,958
Other accrued expenses	9,302	4,711
Interest payable	4,198	4,198
Capital lease obligations, current portion	2,482	2,908
Liability related to refundable upfront payment	12,500	12,500
Deferred revenue, current portion	25,491	14,352
Other current liabilities	3,920	4,499
Total current liabilities	92,544	72,222
Senior secured notes, net	244,771	243,464
Liability related to the sale of future royalties, net	98,394	105,950
Deferred revenue, less current portion	56,225	51,887
Other long-term liabilities	5,959	7,223
Total liabilities	497,893	480,746
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, $0.0001 par value; 10,000 shares authorized; no shares designated, issued or outstanding at September 30, 2017 or December 31, 2016	—	—
Common stock, $0.0001 par value; 300,000 shares authorized; 156,953 shares and 153,212 shares issued and outstanding at September 30, 2017 and December 31, 2016, respectively	15	15
Capital in excess of par value	2,170,169	2,111,483
Accumulated other comprehensive loss	(1,907)	(2,363)
Accumulated deficit	(2,084,115)	(2,021,010)
Total stockholders' equity	84,162	88,125
Total liabilities and stockholders' equity	$ 582,055	$ 568,871

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

NEKTAR THERAPEUTICS
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands, except per share information)
(Unaudited)

	Three months ended September 30,		Nine months ended September 30,	
	2017	2016	2017	2016
Revenue:				
Product sales	$ 4,448	$ 14,698	$ 24,897	$ 41,664
Royalty revenue	9,302	5,573	23,953	13,150
Non-cash royalty revenue related to sale of future royalties	8,066	7,692	21,367	22,341
License, collaboration and other revenue	131,112	8,373	142,028	50,829
Total revenue	152,928	36,336	212,245	127,984
Operating costs and expenses:				
Cost of goods sold	5,674	7,033	20,794	23,611
Research and development	65,714	51,951	187,032	153,569
General and administrative	12,055	10,253	40,027	31,515
Total operating costs and expenses	83,443	69,237	247,853	208,695
Income (loss) from operations	69,485	(32,901)	(35,608)	(80,711)
Non-operating income (expense):				
Interest expense	(5,540)	(5,614)	(16,452)	(16,918)
Non-cash interest expense on liability related to sale of future royalties	(4,471)	(4,902)	(13,535)	(14,929)
Interest income and other income (expense), net	1,599	332	3,163	1,666
Total non-operating expense, net	(8,412)	(10,184)	(26,824)	(30,181)
Income (loss) before provision for income taxes	61,073	(43,085)	(62,432)	(110,892)
Provision for income taxes	202	139	434	433
Net income (loss)	$ 60,871	$ (43,224)	$ (62,866)	$ (111,325)
Net income (loss) per share:				
Basic	$ 0.39	$ (0.32)	$ (0.41)	$ (0.82)
Diluted	$ 0.37	$ (0.32)	$ (0.41)	$ (0.82)
Weighted average shares outstanding used in computing net income (loss) per share:				
Basic	156,411	137,094	155,153	136,415
Diluted	162,641	137,094	155,153	136,415

CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(In thousands)
(Unaudited)

	Three months ended September 30,		Nine months ended September 30,	
	2017	2016	2017	2016
Comprehensive income (loss)	$ 60,626	$ (43,167)	$ (62,410)	$ (111,117)

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

NEKTAR THERAPEUTICS
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	Nine months ended September 30,	
	2017	2016
Cash flows from operating activities:		
Net loss	$ (62,866)	$ (111,325)
Adjustments to reconcile net loss to net cash used in operating activities:		
Non-cash royalty revenue related to sale of future royalties	(21,367)	(22,341)
Non-cash interest expense on liability related to sale of future royalties	13,535	14,929
Stock-based compensation	25,118	18,793
Depreciation and amortization	12,081	11,502
Other non-cash transactions	(1,370)	(2,190)
Changes in operating assets and liabilities:		
Accounts receivable, net	12,364	5,698
Inventory	(2,545)	592
Other assets	(2,036)	6,041
Accounts payable	5,729	4,799
Accrued compensation	808	9,735
Accrued clinical trial expenses	(958)	2,726
Other accrued expenses	4,971	2,386
Liability related to refundable upfront payment	—	12,500
Deferred revenue	15,477	(12,665)
Other liabilities	1,046	(5,793)
Net cash used in operating activities	(13)	(64,613)
Cash flows from investing activities:		
Purchases of investments	(314,439)	(142,972)
Maturities of investments	261,112	201,449
Sales of investments	8,823	4,969
Purchases of property, plant and equipment	(7,283)	(3,741)
Net cash (used in) provided by investing activities	(51,787)	59,705
Cash flows from financing activities:		
Payment of capital lease obligations	(2,159)	(5,376)
Proceeds from shares issued under equity compensation plans	32,275	18,041
Net cash provided by financing activities	30,116	12,665
Effect of exchange rates on cash and cash equivalents	11	(32)
Net (decrease) increase in cash and cash equivalents	(21,673)	7,725
Cash and cash equivalents at beginning of period	59,640	55,570
Cash and cash equivalents at end of period	$ 37,967	$ 63,295
Supplemental disclosure of cash flow information:		
Cash paid for interest	$ 14,989	$ 15,513

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

Note 1 — Organization and Summary of Significant Accounting Policies

Organization

We are a research-based biopharmaceutical company headquartered in San Francisco, California and incorporated in Delaware. We are developing a pipeline of drug candidates that utilize our advanced polymer conjugate technology platforms, which are designed to enable the development of new molecular entities that target known mechanisms of action. Our research and development pipeline of new investigational drugs includes treatments for cancer, auto-immune disease and chronic pain.

Our research and development activities have required significant ongoing investment to date and are expected to continue to require significant investment. As a result, we expect to continue to incur substantial losses and negative cash flows from operations in the future. We have financed our operations primarily through cash generated from licensing, collaboration and manufacturing agreements and financing transactions. At September 30, 2017, we had approximately $412.2 million in cash and investments in marketable securities. Also, as of September 30, 2017, we had $253.0 million in debt, including $250.0 million in principal of senior secured notes and $3.0 million of capital lease obligations, of which $2.5 million is current.

Basis of Presentation and Principles of Consolidation

Our consolidated financial statements include the financial position, results of operations and cash flows of our wholly-owned subsidiaries: Nektar Therapeutics (India) Private Limited (Nektar India) and Nektar Therapeutics UK Limited. All intercompany accounts and transactions have been eliminated in consolidation.

We prepared our Condensed Consolidated Financial Statements following the requirements of the Securities and Exchange Commission (SEC) for interim reporting. As permitted under those rules, certain footnotes or other financial information that are normally required by U.S. generally accepted accounting principles (GAAP) for annual periods can be condensed or omitted. In the opinion of management, these financial statements include all normal and recurring adjustments that we consider necessary for the fair presentation of our financial position and operating results.

Our Condensed Consolidated Financial Statements are denominated in U.S. dollars. Accordingly, changes in exchange rates between the applicable foreign currency and the U.S. dollar will affect the translation of each foreign subsidiary’s financial results into U.S. dollars for purposes of reporting our consolidated financial results. Translation gains and losses are included in accumulated other comprehensive loss in the stockholders’ equity section of the Condensed Consolidated Balance Sheets. To date, such cumulative currency translation adjustments have not been significant to our consolidated financial position.

Our comprehensive income (loss) consists of our net income (loss) plus our foreign currency translation gains and losses and unrealized holding gains and losses on available-for-sale securities, neither of which were significant during the three and nine months ended September 30, 2017 and 2016. In addition, there were no significant reclassifications out of accumulated other comprehensive loss to the statements of operations during the three and nine months ended September 30, 2017 and 2016.

The accompanying Condensed Consolidated Financial Statements are unaudited. The Condensed Consolidated Balance Sheet data as of December 31, 2016 was derived from the audited consolidated financial statements which are included in our Annual Report on Form 10-K for the year ended December 31, 2016 filed with the SEC on March 1, 2017. The information included in this Quarterly Report on Form 10-Q should be read in conjunction with the consolidated financial statements and the accompanying notes to those financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2016.

Revenue, expenses, assets, and liabilities can vary during each quarter of the year. The results and trends in these interim Condensed Consolidated Financial Statements are not necessarily indicative of the results to be expected for the full year or any other period.

Use of Estimates

The preparation of consolidated financial statements in conformity with GAAP 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 consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. Accounting estimates

and assumptions are inherently uncertain. Actual results could differ materially from those estimates and assumptions. Our estimates include those related to estimated selling prices of deliverables in collaboration agreements, estimated periods of performance, the net realizable value of inventory, the impairment of investments, the impairment of goodwill and long-lived assets, contingencies, accrued clinical trial expenses, estimated non-cash royalty revenue and non-cash interest expense from our liability related to our sale of future royalties, stock-based compensation, and ongoing litigation, among other estimates. We base our estimates on historical experience and on other assumptions that management believes are reasonable under the circumstances. These estimates form the basis for making judgments about the carrying values of assets and liabilities when these values are not readily apparent from other sources. As appropriate, estimates are assessed each period and updated to reflect current information and any changes in estimates will generally be reflected in the period first identified.

Reclassifications

Certain items previously reported in specific financial statement captions have been reclassified to conform to the current period presentation, including as a result of the adoption of new accounting guidance related to the classification of deferred tax assets described below. Such reclassifications do not materially impact previously reported revenue, operating loss, net loss, total assets, liabilities or stockholders' equity.

Segment Information

We operate in one business segment which focuses on applying our technology platform to improve the performance of established drugs and to develop novel drug candidates. Our business offerings have similar economics and other characteristics, including the nature of products and manufacturing processes, types of customers, distribution methods and regulatory environment. We are comprehensively managed as one business segment by our Chief Executive Officer.

Significant Concentrations

Our customers are primarily pharmaceutical and biotechnology companies that are located in the U.S. and Europe. Our accounts receivable balance contains billed and unbilled trade receivables from product sales, milestones, other contingent payments and royalties, as well as reimbursable costs from collaborative research and development agreements. When appropriate, we provide for an allowance for doubtful accounts by reserving for specifically identified doubtful accounts. We generally do not require collateral from our customers. We perform a regular review of our customers' payment histories and associated credit risk. We have not experienced significant credit losses from our accounts receivable and our allowance for doubtful accounts was not significant at either September 30, 2017 or December 31, 2016.

We are dependent on our suppliers and contract manufacturers to provide raw materials, drugs and devices of appropriate quality and reliability and to meet applicable contract and regulatory requirements. In certain cases, we rely on single sources of supply of one or more critical materials. Consequently, in the event that supplies are delayed or interrupted for any reason, our ability to develop and produce our drug candidates or our ability to meet our supply obligations could be significantly impaired, which could have a material adverse effect on our business, financial condition and results of operations.

Revenue Recognition

Our revenue is derived from our arrangements with pharmaceutical and biotechnology collaboration partners and may result from one or more of the following: upfront and license fees, payments for contract research and development, milestone and other contingent payments, manufacturing and supply payments, and royalties. Our performance obligations under our collaborations may include licensing our intellectual property, manufacturing and supply obligations, and research and development obligations. In order to account for the multiple-element arrangements, we identify the deliverables included within the arrangement and evaluate which deliverables represent separate units of accounting. Analyzing the arrangement to identify deliverables requires the use of judgment, and each deliverable may be an obligation to deliver goods or services, a right or license to use an asset, or another performance obligation. Revenue is recognized separately for each identified unit of accounting when the basic revenue recognition criteria are met: there is persuasive evidence that an arrangement exists, delivery has occurred, the price is fixed or determinable, and collection is reasonably assured.

At the inception of each new multiple-element arrangement or the material modification of an existing multiple-element arrangement, we allocate all consideration received under multiple-element arrangements to all units of accounting based on the relative selling price method, generally based on our best estimate of selling price (ESP). The objective of ESP is to determine the price at which we would transact a sale if the product or service was sold on a stand-alone basis. We determine ESP for the elements in our collaboration arrangements by considering multiple factors including, but not limited to, technical complexity of the performance obligation and similarity of elements to those performed under previous arrangements. Since we apply significant judgment in arriving at the ESPs, any material change in our estimates would significantly affect the allocation of the total consideration to the different elements of a multiple element arrangement.

Product sales

Product sales are primarily derived from fixed price manufacturing and supply agreements with our collaboration partners. We have not experienced any significant returns from our customers.

Royalty revenue

Generally, we are entitled to royalties from our collaboration partners based on the net sales of their approved drugs that are marketed and sold in one or more countries where we hold royalty rights. We recognize royalty revenue when the cash is received or when the royalty amount to be received is estimable and collection is reasonably assured. With respect to the non-cash royalties related to sale of future royalties described in Note 4, revenue is recognized when estimable, otherwise, revenue is recognized during the period in which the related royalty report is received, which generally occurs in the quarter after the applicable product sales are made.

License, collaboration and other revenue

The amount of upfront fees and other payments received by us in license and collaboration arrangements that are allocated to continuing performance obligations, such as manufacturing and supply and development obligations, is deferred and generally recognized ratably over our expected performance period under each respective arrangement. We make our best estimate of the period over which we expect to fulfill our performance obligations, which may include technology transfer assistance, research activities, clinical development activities, and manufacturing activities from research and development through the commercialization of the product. Given the uncertainties of these collaboration arrangements and the drug development process, significant judgment is required to determine the duration of our performance periods and these estimates are periodically re-evaluated.

Contingent consideration received from the achievement of a substantive milestone is recognized in its entirety in the period in which the milestone is achieved, which we believe is consistent with the substance of our performance under our various license and collaboration agreements. A milestone is defined as an event (i) that can only be achieved based in whole or in part either on the entity's performance or on the occurrence of a specific outcome resulting from the entity's performance, (ii) for which there is substantive uncertainty at the date the arrangement is entered into that the event will be achieved, and (iii) that would result in additional payments being due to the entity. A milestone is substantive if the consideration earned from the achievement of the milestone is consistent with our performance required to achieve the milestone or the increase in value to the collaboration resulting from our performance, relates solely to our past performance, and is reasonable relative to all of the other deliverables and payments within the arrangement.

Our license and collaboration agreements with our partners provide for payments to us upon the achievement of development milestones, such as the completion of clinical trials or regulatory submissions, approvals by regulatory authorities, and commercial launches of drugs. Given the challenges inherent in developing and obtaining regulatory approval for drug products and in achieving commercial launches, there was substantial uncertainty whether any such milestones would be achieved at the time of execution of these licensing and collaboration agreements. In addition, we evaluated whether the development milestones met the remaining criteria to be considered substantive. As a result of our analysis, we consider our remaining development milestones under all of our license and collaboration agreements to be substantive and, accordingly, we expect to recognize as revenue future payments received from each milestone only if and as such milestone is achieved.

Our license and collaboration agreements with certain partners also provide for contingent payments to us based solely upon the performance of the respective partner. For such contingent amounts, we expect to recognize the payments as revenue when earned under the applicable contract, which is generally upon completion of performance by the respective partner, provided that collection is reasonably assured.

Our license and collaboration agreements with our partners also provide for payments to us upon the achievement of specified annual sales volumes of approved drugs. We consider these payments to be similar to royalty payments and we will recognize such sales-based payments upon achievement of such annual sales volumes, provided that collection is reasonably assured.

Research and Development Expense

Research and development costs are expensed as incurred and include salaries, benefits and other operating costs such as outside services, supplies and allocated overhead costs. We perform research and development for our proprietary drug candidates and technology development and for certain third parties under collaboration agreements. For our proprietary drug candidates and our internal technology development programs, we invest our own funds without reimbursement from a third party. Where we perform research and development activities under a clinical joint development collaboration, such as our collaboration with Bristol-Myers Squibb, we record the cost reimbursement from our partner as a reduction to research and development expense when reimbursement amounts are due to us under the agreement.

We record accruals for the estimated costs of our clinical trial activities performed by third parties. The financial terms of these agreements are subject to negotiation, vary from contract to contract and may result in uneven payment flows to our vendors. Payments under the contracts depend on factors such as the achievement of certain events, successful enrollment of patients, and completion of certain clinical trial activities. We generally accrue costs associated with the start-up and reporting phases of the clinical trials ratably over the estimated duration of the start-up and reporting phases. We generally accrue costs associated with the treatment phase of clinical trials based on the total estimated cost of the treatment phase on a per patient basis and we expense the per patient cost ratably over the estimated patient treatment period based on patient enrollment in the trials. In specific circumstances, such as for certain time-based costs, we recognize clinical trial expenses using a methodology that we consider to be more reflective of the timing of costs incurred. Advance payments for goods or services that will be used or rendered for future research and development activities are capitalized as prepaid expenses and recognized as expense as the related goods are delivered or the related services are performed. We base our estimates on the best information available at the time. However, additional information may become available to us which may allow us to make a more accurate estimate in future periods. In this event, we may be required to record adjustments to research and development expenses in future periods when the actual level of activity becomes more certain. Such increases or decreases in cost are generally considered to be changes in estimates and will be reflected in research and development expenses in the period identified.

Long-Lived Assets

We assess the impairment of long-lived assets, primarily property, plant and equipment and goodwill, whenever events or changes in business circumstances indicate that the carrying amounts of the assets may not be fully recoverable. When such events occur, we determine whether there has been an impairment in value by comparing the carrying value of the asset with its fair value, as measured by the anticipated undiscounted net cash flows associated with the asset. In the case of goodwill impairment, we perform an impairment test at least annually, on October 1 of each year, and market capitalization is generally used as the measure of fair value. If an impairment in value exists, the asset is written down to its estimated fair value.

Income Taxes

For the three and nine months ended September 30, 2017 and 2016, we recorded an income tax provision for our Nektar India operations at an effective tax rate of approximately 35%. The U.S. federal deferred tax assets generated from our net operating losses have been fully reserved, as we believe it is not more likely than not that the benefit will be realized.

Adoption of New Accounting Principles

In March 2016, the Financial Accounting Standards Board (FASB) issued guidance to simplify several aspects of employee share-based payment accounting, including forfeitures, income tax consequences, classification of awards as either equity or liabilities, and classification on the statement of cash flows. This guidance was effective for our interim and annual periods beginning January 1, 2017. As a result of the adoption of this guidance, as of January 1, 2017, we recorded a $0.2 million charge to our accumulated deficit in our Condensed Consolidated Balance Sheet related to our election to recognize forfeitures of awards as they occur. In addition, prior to adoption of this guidance, tax attributes related to stock option windfall deductions were not recorded until they resulted in a reduction of cash tax payable. As of December 31, 2016, the excluded windfall deductions for federal and state purposes were $20.6 million and $9.8 million, respectively. Upon adoption, we recognized the excluded windfall deductions as a deferred tax asset on a tax-effected basis with a corresponding increase in the valuation allowance.

In November 2015, the FASB issued guidance to require that deferred tax assets and liabilities be classified as noncurrent on the balance sheet. Previous guidance required deferred tax assets and liabilities to be separated into current and noncurrent amounts on the

balance sheet. Accordingly, as of January 1, 2017, we reclassified $0.3 million from other current assets to our other assets balance. This reclassification was applied retrospectively to these balances in our Condensed Consolidated Balance Sheet as of December 31, 2016.

Recent Accounting Pronouncements

In May 2014, the FASB issued guidance codified in Accounting Standards Codification (ASC) 606, *Revenue Recognition — Revenue from Contracts with Customers*, which supersedes the guidance in ASC 605, *Revenue Recognition*, and is effective for public companies for annual and interim periods beginning after December 15, 2017. The FASB has issued numerous updates that provide clarification on a number of specific issues as well as requiring additional disclosures. We plan to adopt the standard in the first quarter of 2018 using the modified retrospective method.

The new guidance requires the application of a five-step model to determine the amount and timing of revenue to be recognized and requires that we recognize revenue in a manner that reasonably reflects the delivery of our goods or services to customers in return for expected consideration. To achieve this core principle, the guidance provides the following steps: (1) identify the contract(s) with a customer; (2) identify the performance obligations in the contract; (3) determine the transaction price; (4) allocate the transaction price to the performance obligations in the contract; and (5) recognize revenue when (or as) the entity satisfies a performance obligation. Under ASC 606, companies may need to use more judgment and make more estimates than under ASC 605 in the application of this five-step process.

We are continuing to assess the impact of the new guidance on our accounting policies and procedures and are evaluating the new requirements as applied to existing collaboration agreements, both in terms of the cumulative adjustment to opening accumulated deficit and our subsequent recognition of revenue. Since each collaboration agreement is unique, we will separately assess each agreement (see Note 6 for a discussion of our existing collaboration agreements) under the new standard. We have not completed all of our assessments and therefore are not yet able to estimate the anticipated impact to our consolidated financial statements from the implementation of the new standard. However, we anticipate that the adoption of ASC 606 will have the following impact to our revenue recognition for a collaboration agreement:

(i) Changes in revenue recognition for distinct licenses of functional intellectual property may result in a timing difference of revenue recognition between the current literature and ASC 606. For certain of our arrangements, the value associated with the licenses and certain other deliverables have been assessed as one unit of accounting and recognized over a period of time pursuant to revenue recognition guidance in effect for such arrangements at the time such arrangements commenced. For certain other arrangements, under current ASC 605 guidance, we identified the license as a separate unit of accounting and recognize revenue upon issuance of the license. Under ASC 606, we may continue to recognize revenue for such licenses at a point in time.

(ii) For other consideration, including milestone payments or contingent payments from our collaboration partners, under our current accounting policy, we recognize such payments as revenue in the period that the payment-triggering event occurred or is achieved. The new revenue standard, however, may require us to recognize these payments before the payment-triggering event is completely achieved, subject to management’s assessment of whether it is probable that the triggering event will be achieved and that a significant reversal in the amount of cumulative revenue recognized will not occur when the uncertainty associated with the variable consideration is subsequently resolved.

(iii) We will recognize revenue for sales-based royalties and commercial sales-based milestones in the period of the related sale based on estimates, rather than recording them as reported by the customer.

In February 2016, the FASB issued guidance to amend a number of aspects of lease accounting, including requiring lessees to recognize almost all leases with a term greater than one year as a right-of-use asset and corresponding liability, measured at the present value of the lease payments. The guidance will become effective for us beginning in the first quarter of 2019 and is required to be adopted using a modified retrospective approach. Early adoption is permitted. We are currently evaluating the impact of the adoption of this standard.

Note 2 — Cash and Investments in Marketable Securities

Cash and investments in marketable securities, including cash equivalents, are as follows (in thousands):

	Estimated Fair Value at	
	September 30, 2017	December 31, 2016
Cash and cash equivalents	$ 37,967	$ 59,640
Short-term investments	314,600	329,462
Long-term investments	59,596	—
Total cash and investments in marketable securities	$ 412,163	$ 389,102

We invest in liquid, high quality debt securities. Our investments in debt securities are subject to interest rate risk. To minimize the exposure due to an adverse shift in interest rates, we invest in securities with maturities of two years or less and maintain a weighted average maturity of one year or less. As of September 30, 2017, $59.6 million of our total investments had maturities greater than one year and as of December 31, 2016, all of our investments had maturities of one year or less.

Gross unrealized gains and losses were not significant at either September 30, 2017 or December 31, 2016. During the three months ended September 30, 2017, we did not sell any of our available-for-sale securities and during the nine months ended September 30, 2017, we sold available-for-sale securities totaling $8.8 million and gross realized gains and losses on those sales were not significant. During the three and nine months ended September 30, 2016, we sold available-for-sale securities totaling $5.0 million and gross realized gains and losses on those sales were not significant. The cost of securities sold is based on the specific identification method.

Under the terms of our 7.75% senior secured notes due October 2020, we are required to maintain a minimum cash and investments in marketable securities balance of $60.0 million.

Our portfolio of cash and investments in marketable securities includes (in thousands):

		Estimated Fair Value at	
	Fair Value Hierarchy Level	September 30, 2017	December 31, 2016
Corporate notes and bonds	2	$ 213,978	$ 156,044
Corporate commercial paper	2	160,786	160,920
Obligations of U.S. government agencies	2	7,249	13,749
Available-for-sale investments		382,013	330,713
Money market funds	1	27,058	51,104
Certificate of deposit	N/A	2,930	2,930
Cash	N/A	162	4,355
Total cash and investments in marketable securities		$ 412,163	$ 389,102

Level 1 —Quoted prices in active markets for identical assets or liabilities.

Level 2 —Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 —Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

We use a market approach to value our Level 2 investments. The disclosed fair value related to our investments is based on market prices from a variety of industry standard data providers and generally represent quoted prices for similar assets in active markets or have been derived from observable market data. During the three and nine months ended September 30, 2017 and 2016, there were no transfers between Level 1 and Level 2 of the fair value hierarchy.

Additionally, as of September 30, 2017, based on a discounted cash flow analysis using Level 3 inputs including financial discount rates, we believe the $250.0 million in principal amount of our 7.75% senior secured notes due October 2020 is consistent with its fair value.

Note 3 — Inventory

Inventory consists of the following (in thousands):

	September 30, 2017	December 31, 2016
Raw materials	$ 1,751	$ 2,055
Work-in-process	8,398	7,311
Finished goods	3,505	1,743
Total inventory	$ 13,654	$ 11,109

Inventory is generally manufactured upon receipt of firm purchase orders from our collaboration partners. Inventory includes direct materials, direct labor, and manufacturing overhead and cost is determined on a first-in, first-out basis. Inventory is valued at the lower of cost or net realizable value and defective or excess inventory is written down to net realizable value based on historical experience or projected usage.

Note 4 — Liability Related to Sale of Future Royalties

On February 24, 2012, we entered into a Purchase and Sale Agreement (the Purchase and Sale Agreement) with RPI Finance Trust (RPI), an affiliate of Royalty Pharma, pursuant to which we sold, and RPI purchased, our right to receive royalty payments (the Royalty Entitlement) arising from the worldwide net sales, from and after January 1, 2012, of (a) CIMZIA®, under our license, manufacturing and supply agreement with UCB Pharma (UCB), and (b) MIRCERA®, under our license, manufacturing and supply agreement with F. Hoffmann-La Roche Ltd and Hoffmann-La Roche Inc. (together referred to as Roche). We received aggregate cash proceeds of $124.0 million for the Royalty Entitlement. As part of this sale, we incurred approximately $4.4 million in transaction costs, which will be amortized to interest expense over the estimated life of the Purchase and Sale Agreement. Although we sold all of our rights to receive royalties from the CIMZIA® and MIRCERA® products, as a result of our ongoing manufacturing and supply obligations related to the generation of these royalties, we will continue to account for these royalties as revenue. We recorded the $124.0 million in proceeds from this transaction as a liability (Royalty Obligation) that will be amortized using the interest method over the estimated life of the Purchase and Sale Agreement as royalties from the CIMZIA® and MIRCERA® products are remitted directly to RPI. During the nine months ended September 30, 2017 and 2016, we recognized $21.4 million and $22.3 million, respectively, in non-cash royalty revenue from net sales of CIMZIA® and MIRCERA® and we recorded $13.5 million and $14.9 million, respectively, of related non-cash interest expense.

Since its inception, our estimate of the total interest expense on the Royalty Obligation resulted in an effective annual interest rate of approximately 17%. We periodically assess the estimated royalty payments to RPI from UCB and Roche and to the extent such payments are greater or less than our initial estimates or the timing of such payments is materially different from our original estimates, we will prospectively adjust the amortization of the Royalty Obligation.

The Purchase and Sale Agreement grants RPI the right to receive certain reports and other information relating to the Royalty Entitlement and contains other representations and warranties, covenants and indemnification obligations that are customary for a transaction of this nature. To our knowledge, we are currently in compliance with these provisions of the Purchase and Sale Agreement; however, if we were to breach our obligations, we could be required to pay damages to RPI that are not limited to the purchase price we received in the sale transaction.

Note 5 — Commitments and Contingencies

Operating Leases

In August 2017, we entered into a Lease Agreement (the “Lease”) with ARE-San Francisco No. 19, LLC (ARE) and terminated our sublease with Pfizer, Inc., effectively extending our lease for 128,793 square feet of space located at 455 Mission Bay Boulevard, San Francisco, California (the “Mission Bay Facility”) from 2020 to 2030. The Lease will allow us to continue using the same site we currently use for our San Francisco-based R&D activities and corporate office.

The term of the Lease commenced on September 1, 2017, and will expire January 31, 2030, subject to our right to extend the term of the Lease for two consecutive five-year periods. The monthly base rent for the Mission Bay Facility will escalate over the term of the Lease at various intervals. During the term of the Lease, we are responsible for paying our share of operating expenses specified in the Lease, including insurance costs and taxes. The Lease also obligates Nektar to rent from ARE a total of an additional approximately 24,000 square feet of space at the Mission Bay Facility at specified delivery dates. The Lease includes various covenants, indemnities, defaults, termination rights, security deposits and other provisions customary for lease transactions of this nature.

Including the above, our future minimum lease payments for our operating leases as of September 30, 2017 are as follows (in thousands):

Years ending December 31,	
2017 (3 months ending)	$ 1,303
2018	6,228
2019	5,457
2020	5,830
2021	8,684
2022	8,968
2023 and thereafter	70,674
Total future minimum lease payments	$ 107,144

Legal Matters

From time to time, we are involved in lawsuits, arbitrations, claims, investigations and proceedings, consisting of intellectual property, commercial, employment and other matters, which arise in the ordinary course of business. We make provisions for liabilities when it is both probable that a liability has been incurred and the amount of the loss can be reasonably estimated. Such provisions are reviewed at least quarterly and adjusted to reflect the impact of settlement negotiations, judicial and administrative rulings, advice of legal counsel, and other information and events pertaining to a particular case. Litigation is inherently unpredictable. If any unfavorable ruling were to occur in any specific period, there exists the possibility of a material adverse impact on the results of our operations of that period and on our cash flows and liquidity.

On August 14, 2015, Enzon, Inc. filed a breach of contract complaint in the Supreme Court of the State of New York (Court) claiming damages of $1.5 million (plus interest) for unpaid licensing fees (the “Enzon Litigation”) through the date of the complaint. Enzon alleged that we failed to pay a post-patent expiration immunity fee related to one of the licenses. On June 26, 2017, we entered into a Second Amendment to the Cross-License and Option Agreement (Cross-License Agreement) with Enzon in which we agreed to pay Enzon a sum of $7.0 million to satisfy all past and future obligations of royalty payments pursuant to the Cross-License Agreement and to have the Enzon Litigation dismissed. The Enzon Litigation was dismissed with prejudice on June 30, 2017. We paid $3.5 million in June 2017. We will pay the remaining $3.5 million in January 2018, which is included in other current liabilities on our Condensed Consolidated Balance Sheet as of September 30, 2017. Of the total $7.0 million consideration, $1.4 million represents our accrued royalty liability to Enzon related to commercial sales of certain products from January 2017 through June 2017 recorded in cost of goods sold for the nine months ended September 30, 2017. In addition, $2.3 million was recorded as a prepaid royalty asset for estimated future commercial sales of certain products through the term of the applicable underlying Enzon patents expiring in March 2018, which Nektar will amortize over this period. As of September 30, 2017, the unamortized prepaid royalty balance is $1.5 million and is included in other current assets. We recorded the remaining $3.3 million of consideration in general and administrative expense in the nine months ended September 30, 2017. No liability was recorded for this matter on our Condensed Consolidated Balance Sheets as of December 31, 2016.

Indemnifications in Connection with Commercial Agreements

As part of our collaboration agreements with our partners related to the license, development, manufacture and supply of drugs based on our proprietary technologies and drug candidates, we generally agree to defend, indemnify and hold harmless our partners from and against third party liabilities arising out of the agreement, including product liability (with respect to our activities) and infringement of intellectual property to the extent the intellectual property is developed by us and licensed to our partners. The term of these indemnification obligations is generally perpetual any time after execution of the agreement. There is generally no limitation on the potential amount of future payments we could be required to make under these indemnification obligations.

From time to time, we enter into other strategic agreements such as divestitures and financing transactions pursuant to which we are required to make representations and warranties and undertake to perform or comply with certain covenants, including our obligation to RPI described in Note 4. In the event it is determined that we breached certain of the representations and warranties or covenants made by us in any such agreements, we could incur substantial indemnification liabilities depending on the timing, nature, and amount of any such claims.

To date, we have not incurred costs to defend lawsuits or settle claims related to these indemnification obligations. Because the aggregate amount of any potential indemnification obligation is not a stated amount, the overall maximum amount of any such

obligations cannot be reasonably estimated. No liabilities have been recorded for these obligations in our Condensed Consolidated Balance Sheets at either September 30, 2017 or December 31, 2016.

Note 6 — License and Collaboration Agreements

We have entered into various collaboration agreements including license agreements and collaborative research, development and commercialization agreements with various pharmaceutical and biotechnology companies. Under these collaboration arrangements, we are entitled to receive license fees, upfront payments, milestone and other contingent payments, royalties, sales milestone payments, and payments for the manufacture and supply of our proprietary PEGylation materials and/or for research and development activities. All of our collaboration agreements are generally cancelable by our partners without significant financial penalty. Our costs of performing these services are generally included in research and development expense, except that costs for product sales to our collaboration partners are included in cost of goods sold.

In accordance with our collaboration agreements, we recognized license, collaboration and other revenue as follows (in thousands):

		Three months ended September 30,		Nine months ended September 30,	
Partner	Drug or Drug Candidate	2017	2016	2017	2016
Eli Lilly and Company	NKTR-358	$ 127,553	$ —	$ 127,553	$ —
AstraZeneca AB	MOVANTIK® and MOVANTIK® fixed-dose combination program	—	3,000	4,600	31,000
Amgen, Inc.	Neulasta®	1,250	1,250	3,750	3,750
Bayer Healthcare LLC	BAY41-6551 (Amikacin Inhale)	357	357	1,072	1,072
Daiichi Sankyo Europe GmbH	ONZEALD™ (NKTR-102)	216	216	647	3,474
Baxalta Incorporated	ADYNOVATE®	312	336	357	648
Roche	MIRCERA®	—	1,929	—	5,771
Other		1,424	1,285	4,049	5,114
License, collaboration and other revenue		$ 131,112	$ 8,373	$ 142,028	$ 50,829

As of September 30, 2017, our collaboration agreements with partners included potential future payments for development milestones totaling approximately $397.0 million, including amounts from our agreements with Lilly, Daiichi, Bayer, and Baxalta described below. In addition, under our collaboration agreements we are entitled to receive contingent development payments and contingent sales milestones and royalty payments, as described below.

There have been no material changes to our collaboration agreements in the nine months ended September 30, 2017, except as described below.

***Eli Lilly and Company (Lilly)**: NKTR-358*

Effective August 23, 2017, we entered into a worldwide license agreement with Eli Lilly and Company (Lilly) to co-develop NKTR-358, a novel immunological drug candidate that we invented. Under the terms of the agreement we (i) received an initial payment of $150.0 million in September 2017 and are eligible for up to $250.0 million in additional development and regulatory milestones, (ii) will co-develop NKTR-358 with Lilly with Nektar responsible for completing Phase 1 clinical development and certain drug product development and supply activities, (iii) will share with Lilly Phase 2 development costs with 75% of those costs borne by Lilly and 25% of the costs borne by Nektar, (iv) will have the option to contribute funding to Phase 3 development on an indication-by-indication basis ranging from zero to 25% of development costs, and (v) will have the opportunity to receive up to double-digit sales royalty rates that escalate based upon our Phase 3 development contribution and the level of global product annual sales. Lilly will be responsible for all costs of global commercialization and we will have an option to co-promote in the U.S. under certain conditions. A portion of these regulatory milestones may be reduced by 50% under certain conditions, related to the final formulation of the approved product and the timing of prior approval (if any) of competitive products with a similar mechanism of action, which could reduce these milestone payments by 75% if both conditions occur.

The agreement will continue until Lilly no longer has any royalty payment obligations or, if earlier, the termination of the agreement in accordance with its terms. The agreement may be terminated by Lilly for convenience, and may also be terminated under certain other circumstances, including material breach.

We identified our license grant to Lilly, our ongoing Phase 1 clinical development obligation, our drug product development obligation and our obligation to supply clinical trial materials as the significant, non-contingent deliverables under the agreement and concluded that each of them represents a separate unit of accounting. The valuation of each unit of accounting involves significant estimates and assumptions, including but not limited to, expected market opportunity, assumed royalty rates, pricing objectives, clinical trial timelines, likelihood of success and projected costs; in each case these estimates and assumptions covering long time periods. We determined the best estimate of the selling price for the license based on a discounted cash flow analysis of projected development costs and revenues from sales of NKTR-358 using a discount rate based on a market participant's weighted average cost of capital adjusted for forecasting risk. We determined the best estimate of selling prices for Phase 1 clinical development, drug product development and clinical supply deliverables based on the nature of the services to be performed and estimates of the associated efforts and third-party rates for similar services.

Based on these estimates at agreement inception, the $150.0 million upfront payment, which was received in September 2017, was allocated $125.9 million to the license, $17.6 million to the Phase 1 clinical development and $6.5 million to the drug product development based on our estimate of their relative selling prices. We did not allocate any of the upfront arrangement consideration to the supply obligations as we will receive incremental consideration when we deliver such materials. We recognized license revenue upon the effective date of the arrangement in August 2017. We will recognize revenue related to Phase 1 clinical development and drug product development activities using the proportionate performance method as services are provided over the estimated service period, which we estimate will continue until the end of 2019. As a result, during the three months ended September 30, 2017, we recognized $125.9 million of revenue related to the license and $1.7 million of revenue related to Phase 1 clinical development and drug product development activities. We have recorded the remaining $22.4 million related to Phase 1 clinical development and drug product development activities as deferred revenue as of September 30, 2017.

***AstraZeneca AB**: MOVANTIK® (naloxegol oxalate), previously referred to as naloxegol and NKTR-118, and MOVANTIK® fixed-dose combination program, previously referred to as NKTR-119*

We are a party to an agreement with AstraZeneca AB (AstraZeneca) under which we granted AstraZeneca a worldwide, exclusive license under our patents and other intellectual property to develop, market, and sell MOVANTIK® and MOVANTIK® fixed-dose combination program. AstraZeneca is responsible for all research, development and commercialization and is responsible for all drug development and commercialization decisions for MOVANTIK® and the MOVANTIK® fixed-dose combination program. AstraZeneca paid us an upfront payment of $125.0 million, which we received in the fourth quarter of 2009 and which was fully recognized as of December 31, 2010. In addition, we have received payments based on development events related to MOVANTIK® completed solely by AstraZeneca. We are entitled to receive up to $75.0 million of commercial launch contingent payments related to the MOVANTIK® fixed-dose combination program, based on development events to be pursued and completed solely by AstraZeneca. In addition, we are entitled to significant and escalating double-digit royalty payments and sales milestone payments based on annual worldwide net sales of MOVANTIK® and MOVANTIK® fixed-dose combination products.

On September 16, 2014, the United States Food and Drug Administration (FDA) approved MOVANTIK® for the treatment of opioid-induced constipation (OIC) in adult patients with chronic, non-cancer pain. On December 9, 2014, AstraZeneca announced that MOVENTIG® (the naloxegol brand name in the European Union or EU) had been granted Marketing Authorization by the European Commission (EC) for the treatment of opioid-induced constipation (OIC) in adult patients who have had an inadequate response to laxative(s).

On March 1, 2016, AstraZeneca announced that it had entered into an agreement with ProStrakan Group plc, a subsidiary of Kyowa Hakko Kirin Co. Ltd. (Kirin), granting Kirin exclusive marketing rights to MOVENTIG® in the EU, Iceland, Liechtenstein, Norway and Switzerland. Under the terms of AstraZeneca's agreement with Kirin, Kirin made a $70.0 million upfront payment to AstraZeneca and will make additional payments based on achieving market access milestones, tiered net sales royalties, as well as sales milestones. Under our license agreement with AstraZeneca, we and AstraZeneca will share the upfront payment, market access milestone payments, royalties and sales milestone payments from Kirin with AstraZeneca receiving 60% and Nektar receiving 40%. This payment sharing arrangement is in lieu of other royalties payable by AstraZeneca to us and a portion of the sales milestones as described below. Our 40% share of royalty payments made by Kirin to AstraZeneca will be financially equivalent to us receiving high single-digit to low double-digit royalties dependent on the level of Kirin's net sales. Kirin's MOVENTIG® net sales will be included for purposes of achieving the annual global sales milestones payable to us by AstraZeneca and will also be included for purposes of determining the applicable ex-U.S. royalty rate, from the tier schedule in our AstraZeneca license agreement, that will be applied to ex-U.S. sales outside of the Kirin territory. The global sales milestones under our license agreement with AstraZeneca will be reduced in relation to the amount of Kirin MOVENTIG® net sales that contribute to any given annual sales milestone target. As a result, in

March 2016, we recognized $28.0 million for our 40% share of the $70.0 million payment received by AstraZeneca from Kirin. In addition, in the nine months ended September 30, 2017, we recognized another $4.6 million, respectively, related to our share of similar payments made to AstraZeneca. As of September 30, 2017, we do not have deferred revenue related to our agreement with AstraZeneca.

In general, other than as described in this paragraph, AstraZeneca has full responsibility for all research, development and commercialization costs under our license agreement. As part of its approval of MOVANTIK®, the FDA required AstraZeneca to perform a post-marketing, observational epidemiological study comparing MOVANTIK® to other treatments of OIC in patients with chronic, non-cancer pain. As a result, the royalty rate payable to us from net sales of MOVANTIK® in the U.S. by AstraZeneca will be reduced by up to two percentage points to fund 33% of the external costs incurred by AstraZeneca to fund such post approval study, subject to a $35.0 million aggregate cap. Any costs incurred by AstraZeneca can only be recovered by the reduction of the royalty paid to us. In no case can amounts be recovered by the reduction of a contingent payment due from AstraZeneca to us or through a payment from us to AstraZeneca.

***Amgen, Inc**.: Neulasta®*

In October 2010, we amended and restated an existing supply and license agreement by entering into a supply, dedicated suite and manufacturing guarantee agreement (the amended and restated agreement) and a license agreement with Amgen Inc. and Amgen Manufacturing, Limited (together referred to as Amgen). Under the terms of the amended and restated agreement, we received a $50.0 million payment in the fourth quarter of 2010 in return for our guaranteeing the supply of certain quantities of our proprietary PEGylation materials to Amgen. As of September 30, 2017, we have deferred revenue of approximately $15.4 million related to this agreement, which we expect to recognize through October 2020, the estimated end of our obligations under this agreement.

***Bayer Healthcare LLC**: BAY41-6551 (Amikacin Inhale)*

In August 2007, we entered into a co-development, license and co-promotion agreement with Bayer Healthcare LLC (Bayer) to develop a specially-formulated inhaled Amikacin. We are responsible for development and manufacturing and supply of our proprietary nebulizer device included in the Amikacin product. Bayer is responsible for most future clinical development and commercialization costs, all activities to support worldwide regulatory filings, approvals and related activities, further development of Amikacin Inhale and final product packaging and distribution. In April 2013, Bayer initiated a Phase 3 clinical trial in the treatment of intubated and mechanically ventilated patients with Gram-negative pneumonia. As of September 30, 2017, we have received an upfront payment of $40.0 million (which was paid to us in 2007) and milestone payments totaling $30.0 million (the last of which was paid to us in 2013). In addition, in June 2013, we made a $10.0 million payment to Bayer for the reimbursement of some of its costs of the Phase 3 clinical trial.

We are entitled to receive up to an additional $50.0 million of development milestones upon achievement of certain development objectives, including $22.5 million related to FDA approval, as well as sales milestones upon achievement of annual sales targets. We are also entitled to royalties based on annual worldwide net sales of Amikacin Inhale. As of September 30, 2017, we have deferred revenue of approximately $16.8 million related to this agreement, which we expect to recognize through June 2029, the estimated end of our obligations under this agreement.

***Daiichi Sankyo Europe GmbH**: ONZEALD™ (etirinotecan pegol), also referred to as NKTR-102*

Effective May 30, 2016, we entered into a collaboration and license agreement with Daiichi Sankyo Europe GmbH, a German limited liability company (Daiichi), under which we granted Daiichi exclusive commercialization rights in the European Economic Area, Switzerland, and Turkey (collectively, the European Territory) to our proprietary product candidate ONZEALD™ (etirinotecan pegol), which is also known as NKTR-102, a long-acting topoisomerase I inhibitor in clinical development for the treatment of adult patients with advanced breast cancer who have brain metastases (BCBM). We retain all rights to ONZEALD™ in all countries outside the European Territory including the United States.

Under the terms of the agreement and in consideration for the exclusive commercialization rights in the European Territory, Daiichi paid us a $20.0 million up-front payment in August 2016 and we will be eligible to receive up to an aggregate of $60.0 million in regulatory and commercial milestones, including a $10.0 million payment upon the first commercial sale of ONZEALD™ following conditional marketing approval by the European Commission (EC), a $25.0 million payment upon the first commercial sale following final marketing authorization approval of ONZEALD™ by the EC, and a $25.0 million sales milestone payment upon Daiichi's first achievement of a certain specified annual net sales target. We are also eligible to receive a 20% royalty on net sales of ONZEALD™ by Daiichi in all countries in the European Territory except for net sales in Turkey where we are eligible to receive a 15% royalty. We will be responsible for supplying Daiichi with its requirements for ONZEALD™ on a fully burdened reimbursed cost basis. Daiichi will be responsible for all commercialization activities for ONZEALD™ in the European Territory and will bear all

associated costs. In addition, we are responsible for funding and conducting a Phase 3 confirmatory trial in patients with BCBM which we call the ATTAIN study, which was initiated in the fourth quarter of 2016 and is on-going.

On July 21, 2017, we were informed by the European Medicines Agency's Committee for Medicinal Products for Human Use (CHMP) that it had adopted a negative opinion for the conditional marketing authorization application for ONZEALD™ in the European Union. On July 26, 2017, we filed a request for re-examination of the opinion adopted by the CHMP (the "CHMP Appeal"). During the CHMP Appeal process, Nektar and Daiichi will continue to collaborate on ONZEALD™ and the parties have agreed that, with respect to Daiichi's right to terminate the agreement prior to conditional approval, Daiichi would not exercise such right prior to the earlier of the conclusion of the CHMP Appeal process or a pre-specified date in the first half of 2018. If we are not successful with the CHMP Appeal, we would be obligated to pay Daiichi a $12.5 million termination payment. The $12.5 million contingent termination payment from us to Daiichi is recorded in our liability related to refundable upfront payment balance in our Condensed Consolidated Balance Sheet at September 30, 2017 and December 31, 2016.

We identified our grant of the exclusive license to Daiichi on May 30, 2016 and our ongoing clinical and regulatory development service obligations as the significant, non-contingent deliverables under the agreement and determined that each represents a separate unit of accounting. We made our best estimate of the selling price for the license grant based on a discounted cash flow analysis of projected ONZEALD™ sales and estimated the selling price for the development services based on our experience with the costs of similar clinical studies and regulatory activities. Based on these estimates at agreement inception, we allocated the $7.5 million non-refundable portion of the $20.0 million upfront payment from Daiichi to these items based on their relative selling prices. As a result, in the nine months ended September 30, 2016, we recognized a total of $3.5 million of revenue from this arrangement, primarily related to the delivery of the license. In the nine months ended September 30, 2017, we recognized $0.6 million related to our development service obligations. As of September 30, 2017, we have deferred revenue of approximately $3.2 million related to our development service obligations under this agreement, which we expect to recognize through May 2021, the estimated end of our development obligations. If the EC were to grant conditional marketing approval of ONZEALD™, the remaining $12.5 million portion of the upfront payment becomes non-refundable and we expect to allocate this amount between the license and development service obligation consistent with the estimated selling prices of these deliverables. The license related amount will be recognized immediately and the development service related amount will be recorded as deferred revenue and recognized ratably over the remaining obligation period.

We determined that the milestones noted above payable to us by Daiichi upon the first commercial sale of ONZEALD™ following conditional marketing approval and following final marketing authorization approval of ONZEALD™ by the EC are substantive milestones that will be recognized if and when achieved. In addition, we determined that the sales milestone due to us upon Daiichi's first achievement of a certain specified annual net sales target should be considered a contingent payment and will be recognized if and when achieved.

***Baxalta Incorporated**: Hemophilia*

We are a party to an exclusive research, development, license and manufacturing and supply agreement with Baxalta Incorporated (Baxalta), a subsidiary of Shire plc, entered into in September 2005 to develop products designed to improve therapies for Hemophilia A patients using our PEGylation technology. Under the terms of the agreement, we are entitled to research and development funding and are responsible for supplying Baxalta with its requirements for our proprietary materials. Baxalta is responsible for all clinical development, regulatory, and commercialization expenses.

This Hemophilia A program includes ADYNOVATE®, which was approved by the FDA in November 2015 for use in adults and adolescents, aged 12 years and older, who have Hemophilia A, and is now marketed in the U.S. A marketing approval application for ADYNOVATE® is currently under review in the EU. As a result of the FDA's approval, we achieved and recognized a $10.0 million development milestone in November 2015, which was received in January 2016. In addition, under the terms of this agreement, we are entitled to a $10.0 million development milestone due upon marketing authorization approval in the EU, as well as sales milestones upon achievement of annual sales targets and royalties based on annual worldwide net sales. As of September 30, 2017, we do not have deferred revenue related to this agreement.

***Roche**: MIRCERA®*

In February 2012, we entered into a toll-manufacturing agreement with Roche under which we agreed to manufacture the proprietary PEGylation material used by Roche to produce MIRCERA®. Roche entered into the toll-manufacturing agreement with the objective of establishing us as a secondary back-up supply source on a non-exclusive basis. Under the terms of our toll-manufacturing agreement, Roche paid us an upfront payment of $5.0 million and an additional $22.0 million in performance-based milestone payments upon our achievement of certain manufacturing readiness, validation and production milestones, including the

delivery of specified quantities of PEGylation materials, all of which were completed as of January 2013. Our performance obligations under this MIRCERA® agreement ended on December 31, 2016.

***Ophthotech Corporation**: Fovista®*

On October 27, 2017, we agreed to terminate our license and supply agreement with Ophthotech Corporation (Ophthotech), which was dated September 2006 and under which Ophthotech received a worldwide, exclusive license to certain of our proprietary PEGylation technology to develop, manufacture and sell Fovista®. Under the terms of our agreement, we were the exclusive supplier of all of Ophthotech's clinical and commercial requirements for our proprietary PEGylation reagent used in Fovista®. The termination of our agreement with Ophthotech followed Opthotech's previous announcements, in December 2016 and August 2017, that their three pivotal Phase 3 studies investigating the superiority of Fovista® therapy in combination with Lucentis® therapy compared to Lucentis® monotherapy and evaluating Fovista® in combination with Eylea® or Avastin® compared to Eylea® or Avastin® monotherapy for the treatment of wet age-related macular degeneration (AMD) did not achieve the pre-specified primary endpoints. On October 27, 2017, Ophthotech also announced that Novartis Pharma AG (Novartis) terminated its Licensing and Commercialization Agreement with Ophthotech for Fovista®, which the companies had entered into in May 2014.

Under our agreement with Ophthotech, in June 2014, we received a $19.8 million payment from Ophthotech in connection with its licensing agreement with Novartis. In addition, in January 2017, we received a $12.7 million advance payment from Ophthotech, which included $10.4 million for reagent shipments recognized in the second quarter of 2017 as well as approximately $2.3 million for 2017 minimum purchase requirements. Prior to the termination of our agreement with Ophthotech and as of September 30, 2017, we had deferred revenue of approximately $18.0 million related to this agreement, which we had been recognizing through March 2029, the estimated end of our obligations under our agreement. As a result of the termination of our arrangement with Ophthotech, we expect to recognize the remaining $18.0 million of deferred revenue from this arrangement in the three months ended December 31, 2017.

***Bristol-Myers Squibb**: NKTR-214*

On September 21, 2016, we entered into a Clinical Trial Collaboration Agreement (BMS Agreement) with Bristol-Myers Squibb Company, a Delaware corporation (BMS), pursuant to which we and BMS are collaborating to conduct Phase 1/2 clinical trials evaluating our IL-2-based CD122-biased agonist, known as NKTR-214, and BMS' human monoclonal antibody that binds PD-1, known as Opdivo® (nivolumab), as a potential combination treatment regimen in five tumor types and eight indications, and such other clinical trials evaluating the combined therapy as may be mutually agreed upon by the parties (each, a "Combination Therapy Trial").

We are acting as the sponsor of each Combination Therapy Trial. Under the BMS Agreement, BMS is responsible for 50% of all out-of-pocket costs reasonably incurred by us in connection with third party contract research organizations, laboratories, clinical sites and institutional review boards and we record cost reimbursement payments to us from BMS as a reduction to research and development expense. Each party will otherwise be responsible for its own internal costs, including internal personnel costs, incurred in connection with each Combination Therapy Trial. Nektar and BMS will use commercially reasonable efforts to manufacture and supply NKTR-214 and Opdivo® (nivolumab), respectively, for each Combination Therapy Trial with each party bearing its own costs related thereto. The parties formed a joint development committee to oversee clinical trial design, regulatory strategy, and other activities necessary to conduct and support the Combination Therapy Trials.

Ownership of, and global commercial rights to, NKTR-214 remain solely with us under the BMS Agreement. If we wish to license the right to commercialize NKTR-214 in one of certain major market territories prior to September 30, 2018 (Exclusivity Expiration Date), we must first negotiate with BMS, for a period of three months (Negotiation Period), to grant an exclusive license to develop and commercialize NKTR-214 in any of these major market territories. If we do not reach an agreement with BMS for an exclusive license within the Negotiation Period, we will be free to license any right to NKTR-214 to other parties in any territory worldwide except that in the event that we receive a license offer from a third party during a period of 90 calendar days after the end of the Negotiation Period, we will provide BMS ten business days to match the terms of such third-party offer. After the Exclusivity Expiration Date, we are free to license NKTR-214 without any further obligation to BMS. Each party grants to the other party a non-exclusive, worldwide (subject to certain exceptions in the case of the license granted by BMS), non-transferable and royalty-free research and development license to such licensing party's patent rights, technology and regulatory documentation to use its compound solely to the extent necessary to discharge its obligations under the BMS Agreement with respect to the conduct of the Combination Therapy Trials.

Other

In addition, as of September 30, 2017, we have a number of other collaboration agreements, including with our collaboration partners UCB and Halozyme, under which we are entitled to up to a total of $45.5 million of development milestone payments upon achievement of certain development objectives, as well as sales milestones upon achievement of annual sales targets and royalties based on net sales of commercialized products, if any. However, given the current phase of development of the potential products under these collaboration agreements, we cannot estimate the probability or timing of achieving these milestones. As of September 30, 2017, we have deferred revenue of approximately $5.9 million related to these other collaboration agreements, which we expect to recognize through 2020, the estimated end of our obligations under those agreements.

Note 7 — Stock-Based Compensation

Total stock-based compensation expense was recognized in our Condensed Consolidated Statements of Operations as follows (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2017	2016	2017	2016
Cost of goods sold	$ 547	$ 396	$ 1,639	$ 1,186
Research and development	5,212	3,181	14,429	9,505
General and administrative	3,076	2,589	9,050	8,102
Total stock-based compensation	$ 8,835	$ 6,166	$ 25,118	$ 18,793

During the three months ended September 30, 2017 and 2016, we granted 833,290 and 657,960 stock options, respectively, and these options had a weighted average grant-date fair value of $10.38 per share and $8.06 per share, respectively. During the three months ended September 30, 2017 and 2016, we granted 110,500 and 56,000 RSUs, respectively.

During the nine months ended September 30, 2017 and 2016, we granted 2,118,310 and 1,447,250 stock options, respectively, and these options had a weighted average grant-date fair value of $9.36 per share and $7.42 per share, respectively. During the nine months ended September 30, 2017 and 2016, we granted 110,500 and 58,000 RSUs, respectively.

As a result of stock issuances under our equity compensation plans, during the three months ended September 30, 2017 and 2016, we issued 1,092,371 and 1,193,764 shares of our common stock, respectively, and during the nine months ended September 30, 2017 and 2016, we issued 3,741,140 and 2,507,701 shares of our common stock, respectively.

Note 8 — Net Income (Loss) Per Share

Basic net income (loss) per share is calculated based on the weighted-average number of common shares outstanding during the periods presented. Diluted net income (loss) per share is calculated based on the weighted-average number of shares of common stock outstanding, including potential dilutive securities. For all periods presented in the accompanying Condensed Consolidated Statements of Operations, the net income (loss) available to common stockholders is equal to the reported net income (loss).

The calculation of diluted net income per share for the three months ended September 30, 2017 includes the weighted-average of potentially dilutive securities, which consists of shares of common stock underlying outstanding stock options and RSUs of approximately 6.2 million shares. Shares of common stock underlying outstanding stock options totaling approximately 1.9 million

weighted-average shares outstanding during the three months ended September 30, 2017 were excluded from the computation of diluted net income per share for that period because their effect was antidilutive.

For periods in which we have generated a net loss, basic and diluted net loss per share are the same due to the requirement to exclude potentially dilutive securities which would have an antidilutive effect on net loss per share. During the nine months ended September 30, 2017 and the three and nine months ended September 30, 2016, potentially dilutive securities consisted of shares of common stock underlying outstanding stock options and RSUs. During the three months ended September 30, 2016, and the nine months ended September 30, 2017 and 2016, there were weighted average outstanding stock options and RSUs of 19.1 million, 20.4 million and 19.4 million shares, respectively.

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

The following discussion contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those discussed here. Factors that could cause or contribute to such differences include, but are not limited to, those discussed in this section as well as factors described in Part II, Item 1A- "Risk Factors."

Overview

Strategic Direction of Our Business

Nektar Therapeutics is a research-based biopharmaceutical company that discovers and develops innovative new medicines in areas of high unmet medical need. Our research and development pipeline of new investigational drugs includes treatments for cancer, auto-immune disease and chronic pain. We leverage our proprietary and proven chemistry platform to discover and design new drug candidates. These drug candidates utilize our advanced polymer conjugate technology platforms, which are designed to enable the development of new molecular entities that target known mechanisms of action.

We continue to make significant investments in building and advancing our pipeline of proprietary drug candidates as we believe that this is the best strategy to build stockholder value.

- In early 2017, we commenced a broad clinical development program for NKTR-214, our lead immuno-oncology drug candidate in combination with other immuno-oncology agents including Opdivo® (nivolumab) as part of our broad Phase 1/2 clinical collaboration with BMS in five tumor types and eight potential indications, a dose-escalation study with atezolizumab, and numerous preclinical collaboration programs. We recently completed enrollment in the dose-escalation phase of the NKTR-214 study evaluating NKTR-214 in combination with nivolumab in patients with melanoma, renal cell carcinoma and non-small cell lung cancer. We have identified the Phase 2 dose for NKTR-214 and are currently enrolling subjects in the dose expansion phase of the study. On May 22, 2017, we announced a research collaboration that will allow Nektar and Takeda Pharmaceutical Company Limited (Takeda) to evaluate NKTR-214 with five compounds from Takeda's cancer portfolio. On September 12, 2017, we announced that we had begun dosing in a clinical study evaluating the efficacy and safety of NKTR-214 in combination with approved checkpoint inhibitors, TECENTRIQ® (atezolizumab) and KEYTRUDA® (pembrolizumab).
- In February 2017, we filed an investigational new drug (IND) application for NKTR-358, our auto-immune disease drug candidate. We began the Phase 1 clinical study to evaluate single-ascending doses of NKTR-358 in healthy volunteers in March 2017. This study is designed to establish a range of dose levels and evaluate pharmacokinetics and safety. We plan to advance the program into Phase 1b for auto-immune disease indications. On July 24, 2017, we entered into a license agreement with Lilly to co-develop NKTR-358.
- On March 20, 2017, we announced that NKTR-181, met its primary and secondary endpoints in the SUMMIT-07 Phase 3 efficacy study. On July 18, 2017, we announced positive top-line data for our pivotal human abuse potential study (HAP) for NKTR-181. The NKTR-181 HAP study was designed to assess the relative oral abuse potential of NKTR-181 at its highest tested therapeutic dose as well as at the highest dose to which patients have been exposed in our long-term safety study and at a supratherapeutic dose compared to common therapeutic doses of oxycodone, a Schedule II opioid. Following the success of the SUMMIT-07 Phase 3 efficacy study and the HAP study, we are seeking a partner to support future development and commercialization activities for NKTR-181.
- We are also completing preclinical research and investigational new drug (IND)-enabling work for NKTR-262 and NKTR-255 with the goal of advancing those programs into the clinic later this year or in 2018. The level of our future research and development investment will depend on a number of trends and uncertainties including clinical outcomes, future studies required to advance programs to regulatory approval, and the economics related to potential future collaborations that may include up-front payments, development funding, milestones, and royalties.

We also have significant milestone and royalty economic interests in approved drugs and drug candidates in late stage development with our collaboration partners. With AstraZeneca, we have a collaboration for MOVANTIK®, an oral peripherally-acting mu-opioid antagonist for the treatment of opioid-induced constipation in adult patients with non-cancer pain. We have a collaboration with Baxalta (a wholly-owned subsidiary of Shire plc) for ADYNOVATE®, that was approved by the FDA in late 2015 for use in adults and adolescents, aged 12 years and older, who have Hemophilia A. The FDA recently expanded the approval of ADYNOVATE® for the treatment of Hemophilia A in patients under 12 years of age, and for the use in surgical settings for both adult and pediatric patients. In 2016, ADYNOVATE® was approved in Japan for patients aged 12 years and older with Hemophilia A. In late 2016, ADYNOVATE (marketed as ADYNOVI) was approved in Switzerland for use in Hemophilia A patients aged 12 years and older. In March 2017, ADYNOVATE was approved in Canada for use in adults for the treatment of Hemophilia A. ADYNOVATE® is under regulatory review in the European Union. We also have significant milestone and royalty interests in two drug development programs with Bayer. BAY41-6551 (Amikacin Inhale), which is an inhaled solution of amikacin, is an aminoglycoside antibiotic in Phase 3 clinical development to treat ventilator associated pneumonia and we expect topline results from this program before the end

of 2017. The second program with Bayer Schering, Cipro DPI (Cipro Dry Powder Inhaler, previously called Cipro Inhale), is an inhaled dry powder ciprofloxacin in Phase 3 development to treat non-cystic fibrosis bronchiectasis. The first Phase 3 clinical study for Cipro DPI (RESPIRE 1) met its co-primary endpoints for the every 14-day dosing arm of Cipro DPI. On April 5, 2017, an abstract with data from the second Phase 3 clinical study for Cipro DPI (RESPIRE 2) trial was published by the American Thoracic Society in connection with the American Thoracic Society 2017 International Conference. The RESPIRE 2 trial showed a positive trend of Cipro DPI efficacy for both the 14 and the 28 days on/off regimens, but did not reach statistical significance. A pooled analysis of the primary efficacy results of RESPIRE 1 and RESPIRE 2 is positive. Bayer filed a new drug application (NDA) for Cipro DPI which will be discussed by the FDA's Antimicrobial Drugs Advisory Committee Meeting scheduled to meet on November 16, 2017. We also have milestone and royalty interests in other collaboration partner programs including PEGPH20 with Halozyme that is in Phase 3 development and dapirolizumab pegol with UCB Pharma that is in Phase 2 development for systemic lupus erythematosus (SLE). The level of sales growth of MOVANTIK® and ADYNOVATE®, together with the future clinical trial results and potential subsequent approvals of these collaboration partner drug candidates, will have a material impact on our future financial results and financial position.

Our business is subject to significant risks, including the risks inherent in our development efforts, the results of our clinical trials, our dependence on the marketing efforts by our collaborative parties, uncertainties associated with obtaining and enforcing patents, the lengthy and expensive regulatory approval process and competition from other products. For a discussion of these and some of the other key risks and uncertainties affecting our business, see Part II, Item 1A "Risk Factors."

While the approved drugs and clinical development programs described above are key elements of our future success, we believe it is critically important that we continue to make substantial investments in our earlier-stage drug candidate pipeline. We have several drug candidates in earlier stage clinical development or being explored in research that we are preparing to advance into the clinic in future years. We are also advancing several other drug candidates in preclinical development in the areas of cancer immunotherapy, immunology, and other therapeutic indications. While we believe that our substantial investment in research and development has the potential to create significant value if one or more of our drug candidates demonstrates positive clinical results, receives regulatory approval in one or more major markets and achieves commercial success, drug research and development is an inherently uncertain process and there is a high risk of failure at every stage prior to approval and the timing and outcome of clinical trial results are extremely difficult to predict. Clinical development successes and failures can have a disproportionately positive or negative impact on our scientific and medical prospects, financial condition and prospects, results of operations and market value.

Historically, we have entered into a number of license and supply contracts under which we manufactured and supplied our proprietary polymer reagents on a fixed price or cost-plus basis. Our current strategy is to manufacture and supply polymer reagents to support our proprietary drug candidates or our third-party collaborators where we have a strategic development and commercialization relationship or where we derive substantial economic benefit.

Key Developments and Trends in Liquidity and Capital Resources

We estimate that we have working capital to fund our current business plans through at least the next twelve months. At September 30, 2017, we had approximately $412.2 million in cash and investments in marketable securities. Also, as of September 30, 2017, we had $253.0 million in debt, including $250.0 million in principal of senior secured notes and $3.0 million of capital lease obligations.

Results of Operations

Three and Nine Months Ended September 30, 2017 and 2016

Revenue (in thousands, except percentages)

	Three months ended September 30,		Increase/ (Decrease) 2017 vs. 2016	Percentage Increase/ (Decrease) 2017 vs. 2016
	2017	2016		
Product sales	$ 4,448	$ 14,698	$ (10,250)	(70)%
Royalty revenue	9,302	5,573	3,729	67%
Non-cash royalty revenue related to sale of future royalties	8,066	7,692	374	5%
License, collaboration and other revenue	131,112	8,373	122,739	>100%
Total revenue	$ 152,928	$ 36,336	$ 116,592	>100%

	Nine months ended September 30,		Increase/ (Decrease) 2017 vs. 2016	Percentage Increase/ (Decrease) 2017 vs. 2016
	2017	2016		
Product sales	$ 24,897	$ 41,664	$ (16,767)	(40)%
Royalty revenue	23,953	13,150	10,803	82%
Non-cash royalty revenue related to sale of future royalties	21,367	22,341	(974)	(4)%
License, collaboration and other revenue	142,028	50,829	91,199	>100%
Total revenue	$ 212,245	$ 127,984	$ 84,261	66%

Our revenue is derived from our collaboration agreements, under which we may receive product sales revenue, royalties, license fees, milestone and other contingent payments and/or contract research payments. Revenue is recognized when there is persuasive evidence that an arrangement exists, delivery has occurred, the price is fixed or determinable, and collection is reasonably assured. The amount of upfront fees received under our license and collaboration agreements allocated to continuing obligations, such as manufacturing and supply commitments, is recognized ratably over our expected performance period under the arrangement. As a result, there may be significant variations in the timing of receipt of cash payments and our recognition of revenue. We make our best estimate of the period over which we expect to fulfill our performance obligations. Given the uncertainties in research and development collaborations, significant judgment is required by us to determine the performance periods.

Product Sales

Product sales include predominantly fixed price manufacturing and supply agreements with our collaboration partners and are the result of firm purchase orders from those partners. The timing of shipments is based solely on the demand and requirements of our collaboration partners and is not ratable throughout the year.

Product sales decreased for the three and nine months ended September 30, 2017 compared to the three and nine months ended September 30, 2016 primarily due to decreased product demand from our collaboration partners, primarily Ophthotech. In the year ended December 31, 2016, product sales to Ophthotech totaled $30.1 million. In December 2016, Ophthotech announced that two pivotal Phase 3 clinical trials for Fovista® failed to meet their primary endpoints and, in August 2017, announced that the third Fovista® Phase 3 trial also failed to meet its primary endpoint. In the second quarter of 2017, we recognized $10.4 million of product sales to Ophthotech based on prior binding purchase commitments. In October 2017, we terminated our agreement with Ophthotech.

Royalty Revenue

We receive royalty revenue from certain of our collaboration partners based on their net sales of commercial products. Royalty revenue received in cash increased for the three and nine months ended September 30, 2017 compared to the three and nine months ended September 30, 2016 primarily due to increased sales of MOVANTIK® and ADYNOVATE®. We expect royalty revenue for the

full year of 2017 to increase as compared to 2016 due to royalties we expect to receive from net sales of MOVANTIK®, MOVENTIG® and ADYNOVATE® as a result of sales growth of these partnered products.

Non-cash Royalty Revenue Related to Sale of Future Royalties

In February 2012, we sold all of our rights to receive future royalty payments on CIMZIA® and MIRCERA®. As described in Note 4 to our Condensed Consolidated Financial Statements, this royalty sale transaction has been recorded as a liability that amortizes over the estimated royalty payment period. As a result of this liability accounting, even though the royalties from UCB and Roche are remitted directly to the purchaser of these royalty interests, we will continue to record revenue for these royalties. We expect non-cash royalties from net sales of CIMZIA® and MIRCERA® for the full year of 2017 to decrease marginally compared to 2016.

License, Collaboration and Other Revenue

License, collaboration and other revenue includes the recognition of upfront payments, milestone and other contingent payments received in connection with our license and collaboration agreements and certain research and development activities. The level of license, collaboration and other revenue depends in part upon the estimated amortization period of the upfront payments, the achievement of milestones and other contingent events, the continuation of existing collaborations, the amount of research and development work, and entering into new collaboration agreements, if any.

License, collaboration and other revenue increased significantly for the three and nine months ended September 30, 2017 compared to the three and nine months ended September 30, 2016 primarily due to the recognition in the third quarter of 2017 of $127.6 million of the $150.0 million upfront payment we received in September 2017 from our collaboration agreement with Eli Lilly for NKTR-358 as described in Note 6 to our Condensed Consolidated Financial Statements. This increase was partially offset by the recognition in March 2016 of $28.0 million for our 40% share of a sublicense payment received by AstraZeneca from Kirin.

As a result of the Lilly agreement, we expect our license, collaboration and other revenue for the full year of 2017 will increase significantly as compared to 2016.

Cost of Goods Sold and Product Gross Margin (in thousands, except percentages)

	Three months ended September 30,		Increase/ (Decrease) 2017 vs. 2016	Percentage Increase/ (Decrease) 2017 vs. 2016
	2017	2016		
Cost of goods sold	$ 5,674	$ 7,033	$ (1,359)	(19)%
Product gross profit	(1,226)	7,665	(8,891)	>(100)%
Product gross margin	(28)%	52%		

	Nine months ended September 30,		Increase/ (Decrease) 2017 vs. 2016	Percentage Increase/ (Decrease) 2017 vs. 2016
	2017	2016		
Cost of goods sold	$ 20,794	$ 23,611	$ (2,817)	(12)%
Product gross profit	4,103	18,053	(13,950)	(77)%
Product gross margin	16%	43%		

Cost of goods sold decreased during the three and nine months ended September 30, 2017 compared to the three and nine months ended September 30, 2016 primarily due to decreased product sales.

The decrease in product gross profit and product gross margin during the three and nine months ended September 30, 2017 compared to the three and nine months ended September 30, 2016 is primarily due to decreased product sales as well as a less favorable product mix in 2017 compared to 2016. In particular, we have a manufacturing arrangement with a partner that includes a fixed price which is less than the fully burdened manufacturing cost for the reagent and we expect this situation to continue with this

partner in future years. There were more shipments to this partner relative to shipments to other customers during the three and nine months ended September 30, 2017 compared to the three and nine months ended September 30, 2016. In addition to product sales from reagent materials supplied to the partner where our sales are less than our fully burdened manufacturing cost, we also receive royalty revenue from this collaboration. In the three and nine months ended September 30, 2017 and 2016, the royalty revenue from this collaboration exceeded the related negative gross profit.

We expect product gross margin to continue to fluctuate in future periods depending on the level and mix of manufacturing orders from our customers due to the predominantly fixed cost base associated with our manufacturing activities. We currently expect product gross margin to decrease significantly for the full year of 2017 as compared to 2016 and gross margin may approximate breakeven in 2017 as a result of the decrease in product sales from our collaboration partner Ophthotech as described above.

Research and Development Expense (in thousands, except percentages)

	Three months ended September 30,		Increase/ (Decrease) 2017 vs. 2016	Percentage Increase/ (Decrease) 2017 vs. 2016
	2017	2016		
Research and development expense	$ 65,714	$ 51,951	$ 13,763	26%

	Nine months ended September 30,		Increase/ (Decrease) 2017 vs. 2016	Percentage Increase/ (Decrease) 2017 vs. 2016
	2017	2016		
Research and development expense	$ 187,032	$ 153,569	$ 33,463	22%

Research and development expense consists primarily of clinical study costs, direct costs of outside research, materials, supplies, licenses and fees as well as personnel costs (including salaries, benefits, and stock-based compensation). Research and development expense also includes certain overhead allocations consisting of support and facilities-related costs. Where we perform research and development activities under a clinical joint development collaboration, such as our collaboration with Bristol-Myers Squibb, we record the cost reimbursement from our partner as a reduction to research and development expense when reimbursement amounts are due to us under the agreement.

Research and development expense increased during the three and nine months ended September 30, 2017 compared to the three and nine months ended September 30, 2016 and includes increased costs for our clinical development of NKTR-214 and NKTR-358 and preclinical activities for NKTR-262 and NKTR-255. In addition, the increase in research and development expense during the three and nine months ended September 30, 2017 compared with the three and nine months ended September 30, 2016 includes increased costs related to personnel, facilities and outside services. We expect research and development expense for the full year of 2017 to increase as compared to 2016.

Other than as described in the Overview section above, there have been no material changes to the status of clinical programs in the nine months ended September 30, 2017 from the activities discussed in our Annual Report on Form 10-K for the year ended December 31, 2016 on file with the Securities and Exchange Commission.

General and Administrative Expense (in thousands, except percentages)

	Three months ended September 30,		Increase/ (Decrease) 2017 vs. 2016	Percentage Increase/ (Decrease) 2017 vs. 2016
	2017	2016		
General and administrative expense	$ 12,055	$ 10,253	$ 1,802	18%

	Nine months ended September 30,		Increase/ (Decrease) 2017 vs. 2016	Percentage Increase/ (Decrease) 2017 vs. 2016
	2017	2016		
General and administrative expense	$ 40,027	$ 31,515	$ 8,512	27%

General and administrative expense includes the cost of administrative staffing, business development, marketing, finance, and legal activities. General and administrative expense increased during the three and nine months ended September 30, 2017 compared with the three and nine months ended September 30, 2016 primarily due to increased costs related to personnel, facilities and outside services. In addition, the increase in general and administrative expense during the nine months ended September 30, 2017 compared with the nine months ended September 30, 2016 includes recording $3.3 million of expense related to the amendment to our agreement with Enzon described in Note 5 to our Condensed Consolidated Financial Statements. We expect general and administrative expenses in the full year of 2017 to increase compared to 2016.

Interest Expense (in thousands, except percentages)

	Three months ended September 30,		Increase/ (Decrease) 2017 vs. 2016	Percentage Increase/ (Decrease) 2017 vs. 2016
	2017	2016		
Interest expense	$ 5,540	$ 5,614	$ (74)	(1)%
Non-cash interest expense on liability related to sale of future royalties	4,471	4,902	(431)	(9)%

	Nine months ended September 30,		Increase/ (Decrease) 2017 vs. 2016	Percentage Increase/ (Decrease) 2017 vs. 2016
	2017	2016		
Interest expense	$ 16,452	$ 16,918	$ (466)	(3)%
Non-cash interest expense on liability related to sale of future royalties	13,535	14,929	(1,394)	(9)%

Interest expense for the three and nine months ended September 30, 2017 decreased marginally compared with the three and nine months ended September 30, 2016 due to decreased interest expense from our capital leases. Interest expense during the three and nine months ended September 30, 2017 and 2016 primarily consists of interest from our senior secured notes. In October 2015, we issued $250.0 million in aggregate principal amount of 7.75% senior secured notes due October 2020. Interest on the 7.75% senior secured notes is calculated based on actual days outstanding over a 360 day year. We expect interest expense during the full year of 2017 to decrease marginally compared to 2016.

Non-cash interest expense on the liability related to sale of future royalties for the three and nine months ended September 30, 2017 decreased compared with the three and nine months ended September 30, 2016 as a result of the decreasing royalty liability balance. In February 2012, we sold all of our rights to receive future royalty payments on CIMZIA® and MIRCERA® in exchange for $124.0 million. As described in Note 4 to our Condensed Consolidated Financial Statements, this royalty sale transaction has been recorded as a liability that amortizes over the estimated royalty payment period as CIMZIA® and MIRCERA® royalties are remitted directly to the purchaser. We impute interest on the transaction and record interest expense at the effective interest rate, which we currently estimate to be approximately 17%. There are a number of factors that could materially affect the estimated interest rate, in particular, the amount and timing of royalty payments from future net sales of CIMZIA® and MIRCERA®, and we assess this estimate

on a periodic basis. As a result, future interest rates could differ significantly and any such change in interest rate will be adjusted prospectively. Unless we adjust our estimated interest rate, we expect non-cash interest expense on the liability related to sale of future royalties for the full year of 2017 to decrease compared to 2016 as a result of the decreasing royalty liability balance.

Liquidity and Capital Resources

We have financed our operations primarily through revenue from product sales, royalties and research and development contracts, as well as public offering and private placements of debt and equity securities. At September 30, 2017, we had approximately $412.2 million in cash and investments in marketable securities. Also, as of September 30, 2017, we had $253.0 million in debt, including $250.0 million in principal of senior secured notes and $3.0 million of capital lease obligations.

We estimate that we have working capital to fund our current business plans through at least the next twelve months. We expect the clinical development of our proprietary drug candidates including NKTR-181, Amikacin Inhale, ONZEALD™, NKTR-214, and NKTR-358, will continue to require significant investment in order to continue to advance in clinical development with the objective of entering into a collaboration partnership or obtaining regulatory approval. However, we have no credit facility or any other sources of committed capital. In the past, we have received a number of significant payments from collaboration agreements and other significant transactions and we recently entered into a collaboration agreement for NKTR-358 with Eli Lilly under which we received a $150.0 million upfront payment in September 2017. In the future, we expect to receive increasing royalties from commercial sales of products such as MOVANTIK®, MOVENTIG® and ADYNOVATE® as they continue to increase sales after their U.S. product launches and receive and expand ex-U.S. product launches. We also expect potential substantial payments from future collaboration transactions if drug candidates in our pipeline achieve positive clinical or regulatory outcomes. Our current business plan is also subject to significant uncertainties and risks as a result of, among other factors, the sales levels of products for which we are entitled to royalties such as MOVANTIK®, MOVENTIG® and ADYNOVATE®, clinical program outcomes, whether, when and on what terms we are able to enter into new collaboration transactions, expenses being higher than anticipated, unplanned expenses, cash receipts being lower than anticipated, and the need to satisfy contingent liabilities, including litigation matters and indemnification obligations.

The availability and terms of various financing alternatives substantially depend on many factors including the success or failure of drug development programs in our pipeline, including NKTR-181, Amikacin Inhale, CIPRO DPI, ONZEALD™, NKTR-214, NKTR-358 and NKTR-262, as well as other early stage development programs. The availability and terms of financing alternatives and any future significant payments from existing or new collaborations depend on the positive outcome of ongoing or planned clinical studies, whether we or our partners are successful in obtaining regulatory authority approvals in major markets, and if approved, the commercial success of these drugs, as well as general capital market conditions. We will pursue various financing alternatives as needed to continue to fund our research and development activities and to fund the expansion of our business as appropriate.

Due to the potential for adverse developments in the credit markets, we may experience reduced liquidity with respect to some of our investments in marketable securities. These investments are generally held to maturity, which, in accordance with our investment policy, is less than two years. However, if the need arises to liquidate such securities before maturity, we may experience losses on liquidation. At September 30, 2017, the average time to maturity of the investments held in our portfolio was approximately seven months. To date we have not experienced any liquidity issues with respect to these securities. We believe that, even allowing for potential liquidity issues with respect to these securities, our remaining cash and investments in marketable securities will be sufficient to meet our anticipated cash needs for at least the next twelve months.

Cash flows from operating activities

Cash flows used in operating activities for the nine months ended September 30, 2017 were less than $0.1 million, which includes $146.8 million of net operating cash uses as well as $14.6 million for interest payments on our senior secured notes, partially offset by the receipt of $161.4 million of milestones and contingent payments from our collaboration agreements, including a $150.0 million upfront payment received in September 2017 from our NKTR-358 collaboration agreement with Lilly.

Cash flows used in operating activities for the nine months ended September 30, 2016 totaled $64.6 million, which includes $107.9 million of net operating cash uses as well as $14.7 million for interest payments on our senior secured notes, partially offset by the receipt of a $28.0 million payment in April 2016 from AstraZeneca related to its sub-license to Kirin, the receipt of a $20.0 million upfront payment in August 2016 from Daiichi Sankyo related to our NKTR-102 collaboration arrangement in Europe and the receipt of a $10.0 million milestone payment in January 2016 from our Baxalta collaboration agreement.

We expect that cash flows used in operating activities, excluding upfront, milestone and other contingent payments received, if any, will increase in the full year of 2017 compared to 2016 primarily as a result of increased research and development expenses.

Cash flows from investing activities

We paid $7.3 million and $3.7 million to purchase property, plant and equipment in the nine months ended September 30, 2017 and 2016, respectively. We expect our capital expenditures in the full year of 2017 to increase compared to 2016.

Cash flows from financing activities

We received proceeds from issuance of common stock related to our employee option and stock purchase plans of $32.3 million and $18.0 million in the nine months ended September 30, 2017 and 2016, respectively.

Contractual Obligations

Except as described below, there were no material changes during the nine months ended September 30, 2017 to the summary of contractual obligations included in our Annual Report on Form 10-K for the year ended December 31, 2016 on file with the Securities and Exchange Commission.

In August 2017, we entered into a Lease Agreement (the "Lease") with ARE-San Francisco No. 19, LLC (ARE) and terminated our sublease with Pfizer, Inc., effectively extending our lease for 128,793 square feet of space located at 455 Mission Bay Boulevard, San Francisco, California (the "Mission Bay Facility") from 2020 to 2030. The Lease will allow us to continue using the same site we currently use for our San Francisco-based R&D activities and corporate office.

The term of the Lease commenced on September 1, 2017, and will expire January 31, 2030, subject to our right to extend the term of the Lease for two consecutive five-year periods. The monthly base rent for the Mission Bay Facility will escalate over the term of the Lease at various intervals. During the term of the Lease, we are responsible for paying our share of operating expenses specified in the Lease, including insurance costs and taxes. The Lease also obligates Nektar to rent from ARE a total of an additional approximately 24,000 square feet of space at the Mission Bay Facility at specified delivery dates. The Lease includes various covenants, indemnities, defaults, termination rights, security deposits and other provisions customary for lease transactions of this nature. Our future minimum lease payments for our operating leases as of September 30, 2017 are included in Note 5 to our Condensed Consolidated Financial Statements.

Off-Balance Sheet Arrangements

We do not utilize off-balance sheet financing arrangements as a source of liquidity or financing.

Critical Accounting Policies and Estimates

The preparation of financial statements in conformity with U.S. generally accepted accounting principles (GAAP) 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 revenue and expenses during the reporting period.

We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, the results of which form our basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. We evaluate our estimates on an ongoing basis. Actual results may differ from those estimates under different assumptions or conditions. There have been no material changes to our critical accounting policies and estimates discussed in our Annual Report on Form 10-K for the fiscal year ended December 31, 2016.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Our market risks at September 30, 2017 have not changed significantly from those discussed in Item 7A of our Annual Report on Form 10-K for the year ended December 31, 2016 on file with the Securities and Exchange Commission.

Item 4. Controls and Procedures

Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our Securities Exchange Act of 1934 (Exchange Act) reports is recorded, processed, summarized, and reported within the time periods specified in the rules and forms of the Securities and Exchange Commission, and that such information is accumulated and

communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

As of the end of the period covered by this report, 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 pursuant to Exchange Act Rule 13a-15. Based upon, and as of the date of, this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective.

Changes in Internal Control Over Financial Reporting

We continuously seek to improve the efficiency and effectiveness of our internal controls. This results in refinements to processes throughout the Company. However, there was no change in our internal control over financial reporting that occurred in the three months ended September 30, 2017 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Limitations on the Effectiveness of Controls

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent all error and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple errors or mistakes. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of the control. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

PART II: OTHER INFORMATION

Item 1. Legal Proceedings

Reference is hereby made to our disclosures in “Legal Matters” under Note 5 to our Condensed Consolidated Financial Statements in this Quarterly Report on Form 10-Q and the information under the heading “Legal Matters” is incorporated by reference herein.

Item 1A. Risk Factors

Investors in Nektar Therapeutics should carefully consider the risks described below before making an investment decision. The risks described below may not be the only ones relating to our company. This description includes any material changes to and supersedes the description of the risk factors associated with our business previously disclosed in Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2016. Additional risks that we currently believe are immaterial may also impair our business operations. Our business, results of operations, financial condition, cash flows and future prospects and the trading price of our common stock and our ability to repay our senior secured notes could be harmed as a result of any of these risks, and investors may lose all or part of their investment. In assessing these risks, investors should also refer to the other information contained or incorporated by reference in this Quarterly Report on Form 10-Q and our Annual Report on Form 10-K for the year ended December 31, 2016, including our consolidated financial statements and related notes, and our other filings made from time to time with the Securities and Exchange Commission (SEC).

Risks Related to Our Business

Drug development is a long and inherently uncertain process with a high risk of failure at every stage of development.

We have a number of proprietary drug candidates and partnered drug candidates in research and development ranging from the early discovery research phase through preclinical testing and clinical trials. Preclinical testing and clinical studies are long, expensive, difficult to design and implement and highly uncertain as to outcome. It will take us, or our collaborative partners, many years to conduct extensive preclinical tests and clinical trials to demonstrate the safety and efficacy in humans of our product candidates. The start or end of a clinical study is often delayed or halted due to changing regulatory requirements, manufacturing challenges, required clinical trial administrative actions, slower than anticipated patient enrollment, changing standards of care, availability or prevalence of use of a comparator drug or required prior therapy, clinical outcomes, or our and our partners’ financial constraints.

Drug development is a highly uncertain scientific and medical endeavor, and failure can unexpectedly occur at any stage of preclinical and clinical development. Typically, there is a high rate of attrition for drug candidates in preclinical and clinical trials due to scientific feasibility, safety, efficacy, changing standards of medical care and other variables. The risk of failure increases for our drug candidates that are based on new technologies, such as the application of our advanced polymer conjugate technology to ONZEALD™, NKTR-181, NKTR-214, NKTR-358, NKTR-262, NKTR-255, and other drug candidates currently in discovery research or preclinical development. The failure of one or more of our drug candidates could have a material adverse effect on our business, financial condition and results of operations.

The risk of clinical failure for any drug candidate remains high prior to regulatory approval.

A number of companies have suffered significant unforeseen failures in clinical studies due to factors such as inconclusive efficacy or safety, even after achieving preclinical proof-of-concept or positive results from earlier clinical studies that were satisfactory both to them and to reviewing regulatory authorities. Clinical study outcomes remain very unpredictable and it is possible that one or more of our clinical studies could fail at any time due to efficacy, safety or other important clinical findings or regulatory requirements. The results from preclinical testing or early clinical trials of a product candidate may not predict the results that will be obtained in later phase clinical trials of the product candidate. We, the FDA, an independent Institutional Review Board (IRB), an independent ethics committee, or other applicable regulatory authorities may suspend clinical trials of a product candidate at any time for various reasons, including a belief that subjects participating in such trials are being exposed to unacceptable health risks or adverse side effects. Similarly, an IRB or ethics committee may suspend a clinical trial at a particular trial site. If one or more of our drug candidates fail in clinical studies, it could have a material adverse effect on our business, financial condition and results of operations.

Our results of operations and financial condition depend significantly on the ability of our collaboration partners to successfully develop and market drugs and they may fail to do so.

Under our collaboration agreements with various pharmaceutical or biotechnology companies, our collaboration partner is generally solely responsible for:

- designing and conducting large scale clinical studies;
- preparing and filing documents necessary to obtain government approvals to sell a given drug candidate; and/or
- marketing and selling the drugs when and if they are approved.

Our reliance on collaboration partners poses a number of significant risks to our business, including risks that:

- we have very little control over the timing and level of resources that our collaboration partners dedicate to commercial marketing efforts such as the amount of investment in sales and marketing personnel, general marketing campaigns, direct-to-consumer advertising, product sampling, pricing agreements and rebate strategies with government and private payers, manufacturing and supply of drug product, and other marketing and selling activities that need to be undertaken and well executed for a drug to have the potential to achieve commercial success;
- collaboration partners with commercial rights may choose to devote fewer resources to the marketing of our partnered drugs than they devote to their own drugs or other drugs that they have in-licensed;
- we have very little control over the timing and amount of resources our partners devote to development programs in one or more major markets;
- disagreements with partners could lead to delays in, or termination of, the research, development or commercialization of product candidates or to litigation or arbitration proceedings;
- disputes may arise or escalate in the future with respect to the ownership of rights to technology or intellectual property developed with partners;
- we do not have the ability to unilaterally terminate agreements (or partners may have extension or renewal rights) that we believe are not on commercially reasonable terms or consistent with our current business strategy;
- partners may be unable to pay us as expected; and
- partners may terminate their agreements with us unilaterally for any or no reason, in some cases with the payment of a termination fee penalty and in other cases with no termination fee penalty.

Given these risks, the success of our current and future collaboration partnerships is highly unpredictable and can have a substantial negative or positive impact on our business—in particular, we expect the commercial outcomes of MOVANTIK®, MOVENTIG® and ADYNOVATE® (previously referred to as BAX 855) to have a particularly significant impact on our near to mid- term financial results and financial condition. Additionally, there are also several important drugs in later stage development with collaboration partners including Amikacin Inhale and Cipro DPI. If the approved drugs fail to achieve commercial success or the drugs in development fail to have positive late stage clinical outcomes sufficient to support regulatory approval in major markets, it could significantly impair our access to capital necessary to fund our research and development efforts for our proprietary drug candidates. If we are unable to obtain sufficient capital resources to advance our drug candidate pipeline, it would negatively impact the value of our business, results of operations and financial condition.

We are a party to numerous collaboration agreements and other significant agreements which contain complex commercial terms that could result in disputes, litigation or indemnification liability that could adversely affect our business, results of operations and financial condition.

We currently derive, and expect to derive in the foreseeable future, all of our revenue from collaboration agreements with biotechnology and pharmaceutical companies. These collaboration agreements contain complex commercial terms, including:

- clinical development and commercialization obligations that are based on certain commercial reasonableness performance standards that can often be difficult to enforce if disputes arise as to adequacy of our partner’s performance;
- research and development performance and reimbursement obligations for our personnel and other resources allocated to partnered drug candidate development programs;
- clinical and commercial manufacturing agreements, some of which are priced on an actual cost basis for products supplied by us to our partners with complicated cost allocation formulas and methodologies;

- intellectual property ownership allocation between us and our partners for improvements and new inventions developed during the course of the collaboration;
- royalties on drug sales based on a number of complex variables, including net sales calculations, geography, scope of patent claim coverage, patent life, generic competitors, bundled pricing and other factors; and
- indemnity obligations for intellectual property infringement, product liability and certain other claims.

We are a party to numerous significant collaboration agreements and other strategic transaction agreements (e.g., financings and asset divestitures) that contain complex representations and warranties, covenants and indemnification obligations. If we are found to have materially breached such agreements, it could subject us to substantial liabilities and harm our financial condition.

From time to time, we are involved in litigation matters involving the interpretation and application of complex terms and conditions of our agreements. For example, in February 2015, we filed a claim against Allergan and MAP seeking monetary damages related to a dispute over the economic sharing provisions of our collaboration agreement with MAP. On August 14, 2015, Enzon, Inc. filed a breach of contract claim for alleged unpaid licensing fees (the "Enzon Litigation"). On June 26, 2017, we entered into a Second Amendment to our Cross-License and Option Agreement ("Cross-License Agreement") with Enzon in which we agreed to pay Enzon a sum of $7.0 million to satisfy all past and future obligations of royalty payments pursuant to the Cross-License Agreement and to have the Enzon Litigation dismissed. The Enzon Litigation was dismissed with prejudice on June 30, 2017. In 2013, we settled a breach of contract litigation matter with the Research Foundation of the State University of New York (SUNY) pursuant to which we paid an aggregate of $12.0 million. One or more disputes may arise or escalate in the future regarding our collaboration agreements, transaction documents, or third-party license agreements that may ultimately result in costly litigation and unfavorable interpretation of contract terms, which would have a material adverse effect on our business, financial condition and results of operations.

If we or our partners do not obtain regulatory approval for our drug candidates on a timely basis, or at all, or if the terms of any approval impose significant restrictions or limitations on use, our business, results of operations and financial condition will be negatively affected.

We or our partners may not obtain regulatory approval for drug candidates on a timely basis, or at all, or the terms of any approval (which in some countries includes pricing approval) may impose significant restrictions or limitations on use. Drug candidates must undergo rigorous animal and human testing and an extensive review process for safety and efficacy by the FDA and equivalent foreign regulatory authorities. The time required for obtaining regulatory decisions is uncertain and difficult to predict. The FDA and other U.S. and foreign regulatory authorities have substantial discretion, at any phase of development, to terminate clinical studies, require additional clinical development or other testing, delay or withhold registration and marketing approval and mandate product withdrawals, including recalls. For example, while data from certain pre-specified subgroups in our BEACON study for Etirinotecan Pegol (NKTR-102) in 2015 was positive, the study did not achieve statistical significance for its primary endpoint and the FDA and European Medicines Agency rarely approve drugs on the basis of studies that do not achieve statistical significance on the primary endpoint. Further, while the results from the Phase 3 study of NKTR-181 were positive and NKTR-181 has Fast Track designation, the regulatory pathway for NKTR-181 remains subject to substantial uncertainty including the amount of data required to support a new drug application (NDA). Further, regulatory authorities have the discretion to analyze data using their own methodologies that may differ from those used by us or our partners, which could lead such authorities to arrive at different conclusions regarding the safety or efficacy of a drug candidate. In addition, undesirable side effects caused by our drug candidates could cause us or regulatory authorities to interrupt, delay or halt clinical trials and could result in a more restricted label or the delay or denial of regulatory approval by regulatory authorities. For example, AstraZeneca will be conducting a post-marketing, observational epidemiological study comparing MOVANTIK® to other treatments of OIC in patients with chronic, non-cancer pain and the results of this study could at some point in the future negatively impact the labeling, regulatory status, and commercial potential of MOVANTIK®.

Even if we or our partners receive regulatory approval of a product, the approval may limit the indicated uses for which the drug may be marketed. Our partnered drugs that have obtained regulatory approval, and the manufacturing processes for these products, are subject to continued review and periodic inspections by the FDA and other regulatory authorities. Discovery from such review and inspection of previously unknown problems may result in restrictions on marketed products or on us, including withdrawal or recall of such products from the market, suspension of related manufacturing operations or a more restricted label. The failure to obtain timely regulatory approval of product candidates, any product marketing limitations or a product withdrawal would negatively impact our business, results of operations and financial condition.

We have substantial future capital requirements and there is a risk we may not have access to sufficient capital to meet our current business plan. If we do not receive substantial milestone or royalty payments from our existing collaboration agreements, execute new high value collaborations or other arrangements, or are unable to raise additional capital in one or more financing transactions, we would be unable to continue our current level of investment in research and development.

As of September 30, 2017, we had cash and investments in marketable securities valued at approximately $412.2 million. Also, as of September 30, 2017, we had $253.0 million in debt, including $250.0 million in principal of senior secured notes and $3.0 million of capital lease obligations. While we believe that our cash position will be sufficient to meet our liquidity requirements through at least the next 12 months, our future capital requirements will depend upon numerous unpredictable factors, including:

- the cost, timing and outcomes of clinical studies and regulatory reviews of our proprietary drug candidates that we have licensed to our collaboration partners —important examples include Amikacin Inhale and Cipro DPI licensed to Bayer;
- the commercial launch and sales levels of products marketed by our collaboration partners for which we are entitled to royalties and sales milestones—importantly, the level of success in marketing and selling MOVANTIK® by AstraZeneca in the U.S. and ADYNOVATE® by Baxalta globally, as well as MOVENTIG® (the naloxegol brand name in the EU) by Kirin in the EU;
- if and when we receive potential milestone payments and royalties from our existing collaborations if the drug candidates subject to those collaborations achieve clinical, regulatory or commercial success;
- the progress, timing, cost and results of our clinical development programs;
- the success, progress, timing and costs of our efforts to implement new collaborations, licenses and other transactions that increase our current net cash, such as the sale of additional royalty interests held by us, term loan or other debt arrangements, and the issuance of securities;
- the number of patients, enrollment criteria, primary and secondary endpoints, and the number of clinical studies required by the regulatory authorities in order to consider for approval our drug candidates and those of our collaboration partners;
- our general and administrative expenses, capital expenditures and other uses of cash; and
- disputes concerning patents, proprietary rights, or license and collaboration agreements that negatively impact our receipt of milestone payments or royalties or require us to make significant payments arising from licenses, settlements, adverse judgments or ongoing royalties.

A significant multi-year capital commitment is required to advance our drug candidates through the various stages of research and development in order to generate sufficient data to enable high value collaboration partnerships with significant upfront payments or to successfully achieve regulatory approval. In the event we do not enter into any new collaboration partnerships with significant upfront payments and we choose to continue our later stage research and development programs, we may need to pursue financing alternatives, including dilutive equity-based financings, such as an offering of convertible debt or common stock, which would dilute the percentage ownership of our current common stockholders and could significantly lower the market value of our common stock. If sufficient capital is not available to us or is not available on commercially reasonable terms, it could require us to delay or reduce one or more of our research and development programs. If we are unable to sufficiently advance our research and development programs, it could substantially impair the value of such programs and result in a material adverse effect on our business, financial condition and results of operations.

While we have conducted numerous experiments using laboratory and home-based chemistry techniques that have not been able to convert NKTR-181 into a rapid-acting and more abusable opioid, there is a risk that a technique could be discovered in the future to convert NKTR-181 into a rapid-acting and more abusable opioid, which would significantly diminish the value of this drug candidate.

An important objective of our NKTR-181 drug development program is to create a unique opioid molecule that does not rapidly enter a patient's central nervous system and therefore has the potential to be less susceptible to abuse than alternative opioid therapies. To date, we have conducted numerous experiments using laboratory and home-based chemistry techniques that have been unable to convert NKTR-181 into a rapidly-acting, more abusable form of opioid. In the future, an alternative chemistry technique, process or method of administration, or combination thereof, may be discovered to enable the conversion of NKTR-181 into a more abusable opioid, which could significantly and negatively impact the commercial potential or diminish the value of NKTR-181.

The commercial potential of a drug candidate in development is difficult to predict. If the market size for a new drug is significantly smaller than we anticipate, it could significantly and negatively impact our revenue, results of operations and financial condition.

It is very difficult to estimate the commercial potential of product candidates due to important factors such as safety and efficacy compared to other available treatments, including potential generic drug alternatives with similar efficacy profiles, changing standards of care, third party payer reimbursement standards, patient and physician preferences, drug scheduling status, the availability of competitive alternatives that may emerge either during the long drug development process or after commercial introduction, and the availability of generic versions of our product candidates following approval by regulatory authorities based on the expiration of regulatory exclusivity or our inability to prevent generic versions from coming to market by asserting our patents. In particular, regulations concerning and controlling the access to opioid-based pharmaceuticals are strict and there is no guarantee which scheduling category will apply to NKTR-181 if regulatory approval is achieved. If due to one or more of these risks the market potential for a drug candidate is lower than we anticipated, it could significantly and negatively impact the commercial terms of any collaboration partnership potential for such drug candidate or, if we have already entered into a collaboration for such drug candidate, the revenue potential from royalty and milestone payments could be significantly diminished and this would negatively impact our business, financial condition and results of operations. We also depend on our relationships with other companies for sales and marketing performance and the commercialization of product candidates. Poor performance by these companies, or disputes with these companies, could negatively impact our revenue and financial condition.

If we are unable to establish and maintain collaboration partnerships on attractive commercial terms, our business, results of operations and financial condition could suffer.

We intend to continue to seek partnerships with pharmaceutical and biotechnology partners to fund a portion of our research and development capital requirements. The timing of new collaboration partnerships is difficult to predict due to availability of clinical data, the outcomes from our clinical studies, the number of potential partners that need to complete due diligence and approval processes, the definitive agreement negotiation process and numerous other unpredictable factors that can delay, impede or prevent significant transactions. If we are unable to find suitable partners or negotiate collaboration arrangements with favorable commercial terms with respect to our existing and future drug candidates or the licensing of our intellectual property, or if any arrangements we negotiate, or have negotiated, are terminated, it could have a material adverse effect on our business, financial condition and results of operations.

Preliminary and interim data from our clinical studies that we announce or publish from time to time are subject to audit and verification procedures that could result in material changes in the final data and may change as more patient data become available.

From time to time, we publish preliminary or interim data from our clinical studies. Preliminary data remain subject to audit confirmation and verification procedures that may result in the final data being materially different from the preliminary data we previously published. Interim data are also subject to the risk that one or more of the clinical outcomes may materially change as patient enrollment continues and more patient data become available. As a result, preliminary and interim data should be viewed with caution until the final data are available. Material adverse changes in the final data could significantly harm our business prospects.

Delays in clinical studies are common and have many causes, and any significant delay in clinical studies being conducted by us or our partners could result in delay in regulatory approvals and jeopardize the ability to proceed to commercialization.

We or our partners may experience delays in clinical trials of drug candidates. We currently have ongoing trials for NKTR-181 which includes a long-term safety study. We have ongoing trials evaluating NKTR-214 including a trial evaluating NKTR-214 as a potential combination treatment with Opdivo as well as other ongoing and planned combination trials. We also have an ongoing Phase 1 dose-escalation study for NKTR-358 under our collaboration with Lilly which is planned to evaluate single-ascending doses of NKTR-358 in healthy subjects to evaluate the safety and tolerability profile and measure the level and functional activity of regulatory T cells. In addition, our collaboration partners have several late stage programs including Baxalta for ADYNOVATE® (previously referred to as BAX 855) in the EU, and Bayer for Amikacin Inhale. We also have ongoing trials with our partners for the following: Halozyme has trials in Pancreatic, Non-Small Cell Lung Cancer and other multiple tumor types in Phase 1, 2, and 3 development. These and other clinical studies may not begin on time, enroll a sufficient number of patients or be completed on schedule, if at all. Clinical trials for any of our product candidates could be delayed for a variety of reasons, including:

- delays in obtaining regulatory authorization to commence a clinical study;
- delays in reaching agreement with applicable regulatory authorities on a clinical study design;
- imposition of a clinical hold by the FDA or other health authorities, which may occur at any time including after any inspection of clinical trial operations or trial sites;

- suspension or termination of a clinical study by us, our partners, the FDA or foreign regulatory authorities due to adverse side effects of a drug on subjects in the trial;
- delays in recruiting suitable patients to participate in a trial;
- delays in having patients complete participation in a trial or return for post-treatment follow-up;
- clinical sites dropping out of a trial to the detriment of enrollment rates;
- delays in manufacturing and delivery of sufficient supply of clinical trial materials; and
- changes in regulatory authorities policies or guidance applicable to our drug candidates.

If the initiation or completion of any of the planned clinical studies for our drug candidates is delayed for any of the above or other reasons, the regulatory approval process would be delayed and the ability to commercialize and commence sales of these drug candidates could be materially harmed, which could have a material adverse effect on our business, financial condition and results of operations. Clinical study delays could also shorten any periods during which our products have patent protection and may allow our competitors to bring products to market before we do, which could impair our ability to successfully commercialize our product candidates and may harm our business and results of operations.

We may not be able to obtain intellectual property licenses related to the development of our drug candidates on a commercially reasonable basis, if at all.

Numerous pending and issued U.S. and foreign patent rights and other proprietary rights owned by third parties relate to pharmaceutical compositions, methods of preparation and manufacturing, and methods of use and administration. We cannot predict with any certainty which, if any, patent references will be considered relevant to our or our collaboration partners' technology or drug candidates by authorities in the various jurisdictions where such rights exist, nor can we predict with certainty which, if any, of these rights will or may be asserted against us by third parties. In certain cases, we have existing licenses or cross-licenses with third parties; however, the scope and adequacy of these licenses is very uncertain and can change substantially during long development and commercialization cycles for biotechnology and pharmaceutical products. There can be no assurance that we can obtain a license to any technology that we determine we need on reasonable terms, if at all, or that we could develop or otherwise obtain alternate technology. If we are required to enter into a license with a third party, our potential economic benefit for the products subject to the license will be diminished. If a license is not available on commercially reasonable terms or at all, we may be prevented from developing and commercializing the drug, which could significantly harm our business, results of operations, and financial condition.

If any of our pending patent applications do not issue, or are deemed invalid following issuance, we may lose valuable intellectual property protection.

The patent positions of pharmaceutical and biotechnology companies, such as ours, are uncertain and involve complex legal and factual issues. We own more than 215 U.S. and 750 foreign patents and a number of pending patent applications that cover various aspects of our technologies. There can be no assurance that patents that have issued will be held valid and enforceable in a court of law. Even for patents that are held valid and enforceable, the legal process associated with obtaining such a judgment is time consuming and costly. Additionally, issued patents can be subject to opposition or other proceedings that can result in the revocation of the patent or maintenance of the patent in amended form (and potentially in a form that renders the patent without commercially relevant and/or broad coverage). Further, our competitors may be able to circumvent and otherwise design around our patents. Even if a patent is issued and enforceable, because development and commercialization of pharmaceutical products can be subject to substantial delays, patents may expire early and provide only a short period of protection, if any, following the commercialization of products encompassed by our patents. We may have to participate in interference proceedings declared by the U.S. Patent and Trademark Office, which could result in a loss of the patent and/or substantial cost to us.

We have filed patent applications, and plan to file additional patent applications, covering various aspects of our PEGylation and advanced polymer conjugate technologies and our proprietary product candidates. There can be no assurance that the patent applications for which we apply would actually issue as patents, or do so with commercially relevant and/or broad coverage. The coverage claimed in a patent application can be significantly reduced before the patent is issued. The scope of our claim coverage can be critical to our ability to enter into licensing transactions with third parties and our right to receive royalties from our collaboration partnerships. Since publication of discoveries in scientific or patent literature often lags behind the date of such discoveries, we cannot be certain that we were the first inventor of inventions covered by our patents or patent applications. In addition, there is no guarantee that we will be the first to file a patent application directed to an invention.

An adverse outcome in any judicial proceeding involving intellectual property, including patents, could subject us to significant liabilities to third parties, require disputed rights to be licensed from or to third parties or require us to cease using the technology in

dispute. In those instances where we seek an intellectual property license from another, we may not be able to obtain the license on a commercially reasonable basis, if at all, thereby raising concerns on our ability to freely commercialize our technologies or products.

We are involved in legal proceedings and may incur substantial litigation costs and liabilities that will adversely affect our business, financial condition and results of operations.

From time to time, third parties have asserted, and may in the future assert, that we or our partners infringe their proprietary rights, such as patents and trade secrets, or have otherwise breached our obligations to them. A third party often bases its assertions on a claim that its patents cover our technology platform or drug candidates or that we have misappropriated its confidential or proprietary information. Similar assertions of infringement could be based on future patents that may issue to third parties. In certain of our agreements with our partners, we are obligated to indemnify and hold harmless our collaboration partners from intellectual property infringement, product liability and certain other claims, which could cause us to incur substantial costs and liability if we are called upon to defend ourselves and our partners against any claims. If a third party obtains injunctive or other equitable relief against us or our partners, they could effectively prevent us, or our partners, from developing or commercializing, or deriving revenue from, certain drugs or drug candidates in the U.S. and abroad. Costs associated with litigation, substantial damage claims, indemnification claims or royalties paid for licenses from third parties could have a material adverse effect on our business, financial condition and results of operations.

We are involved in legal proceedings where we or other third parties are enforcing or seeking intellectual property rights, invalidating or limiting patent rights that have already been allowed or issued, or otherwise asserting proprietary rights through one or more potential legal remedies. For example, we are currently involved in a German litigation proceeding whereby Bayer is seeking co-ownership rights in certain of our patent filings pending at the European Patent Office covering (among other things) PEGylated Factor VIII which we have exclusively licensed to Baxalta. The subject matter of our patent filings in this proceeding relates to Bayer's PEGylated recombinant Factor VIII compound, BAY 94-9027. We believe that Bayer's claim to an ownership interest in these patent filings is without merit and are vigorously defending sole and exclusive ownership rights to this intellectual property. In addition, Bayer has filed claims in the U.S. against Baxalta and Nektar. In one U.S. proceeding, Bayer alleges ADYNOVATE® infringes a Bayer patent. In another U.S. proceeding, Bayer is seeking a declaratory judgement that BAY 94-9027 does not infringe specified Nektar patents or in the alternative that the specified patents are invalid. As part of its intellectual property litigation strategy relating to PEGylated Factor VIII products, Nektar has also filed claims against Bayer. We are also regularly involved in opposition proceedings at the European Patent Office where third parties seek to invalidate or limit the scope of our allowed European patent applications covering (among other things) our drugs and platform technologies. The cost to us in initiating or defending any litigation or other proceeding, even if resolved in our favor, could be substantial, and litigation would divert our management's attention. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could delay our research and development efforts or result in financial implications either in terms of seeking license arrangements or payment of damages or royalties.

Our manufacturing operations and those of our contract manufacturers are subject to laws and other governmental regulatory requirements, which, if not met, would have a material adverse effect on our business, results of operations and financial condition.

We and our contract manufacturers are required in certain cases to maintain compliance with current good manufacturing practices (cGMP), including cGMP guidelines applicable to active pharmaceutical ingredients, and with laws and regulations governing manufacture and distribution of controlled substances, and are subject to inspections by the FDA, the Drug Enforcement Administration or comparable agencies in other jurisdictions administering such requirements. We anticipate periodic regulatory inspections of our drug manufacturing facilities and the manufacturing facilities of our contract manufacturers for compliance with applicable regulatory requirements. Any failure to follow and document our or our contract manufacturers' adherence to such cGMP and other laws and governmental regulations or satisfy other manufacturing and product release regulatory requirements may disrupt our ability to meet our manufacturing obligations to our customers, lead to significant delays in the availability of products for commercial use or clinical study, result in the termination or hold on a clinical study or delay or prevent filing or approval of marketing applications for our products. Failure to comply with applicable laws and regulations may also result in sanctions being imposed on us, including fines, injunctions, civil penalties, failure of regulatory authorities to grant marketing approval of our products, delays, suspension or withdrawal of approvals, license revocation, seizures, administrative detention, or recalls of products, operating restrictions and criminal prosecutions, any of which could harm our business. Regulatory inspections could result in costly manufacturing changes or facility or capital equipment upgrades to satisfy the FDA that our manufacturing and quality control procedures are in substantial compliance with cGMP. Manufacturing delays, for us or our contract manufacturers, pending resolution of regulatory deficiencies or suspensions could have a material adverse effect on our business, results of operations and financial condition.

If we or our contract manufacturers are not able to manufacture drugs or drug substances in sufficient quantities that meet applicable quality standards, it could delay clinical studies, result in reduced sales or constitute a breach of our contractual obligations, any of which could significantly harm our business, financial condition and results of operations.

If we or our contract manufacturers are not able to manufacture and supply sufficient drug quantities meeting applicable quality standards required to support large clinical studies or commercial manufacturing in a timely manner, it could delay our or our collaboration partners' clinical studies or result in a breach of our contractual obligations, which could in turn reduce the potential commercial sales of our or our collaboration partners' products. As a result, we could incur substantial costs and damages and any product sales or royalty revenue that we would otherwise be entitled to receive could be reduced, delayed or eliminated. In some cases, we rely on contract manufacturing organizations to manufacture and supply drug product for our clinical studies and those of our collaboration partners. Pharmaceutical manufacturing of drugs and devices involves significant risks and uncertainties related to the demonstration of adequate stability, sufficient purification of the drug substance and drug product, the identification and elimination of impurities, optimal formulations, process and analytical methods validations, device performance and challenges in controlling for all of these variables. We have faced and may in the future face significant difficulties, delays and unexpected expenses as we validate third party contract manufacturers required for drug and device supply to support our clinical studies and the clinical studies and products of our collaboration partners. Failure by us or our contract manufacturers to supply drug product or devices in sufficient quantities that meet all applicable quality requirements could result in supply shortages for our clinical studies or the clinical studies and commercial activities of our collaboration partners. Such failures could significantly and materially delay clinical trials and regulatory submissions or result in reduced sales, any of which could significantly harm our business prospects, results of operations and financial condition.

Building and validating large scale clinical or commercial-scale manufacturing facilities and processes, recruiting and training qualified personnel and obtaining necessary regulatory approvals is complex, expensive and time consuming. In the past, we have encountered challenges in scaling up manufacturing to meet the requirements of large scale clinical trials without making modifications to the drug formulation, which may cause significant delays in clinical development. We experienced repeated significant delays in starting the Phase 3 clinical development program for Amikacin Inhale as we sought to finalize and validate the device design with a demonstrated capability to be manufactured at commercial scale. Drug and device combination products are particularly complex, expensive and time-consuming to develop due to the number of variables involved in the final product design, including ease of patient and doctor use, maintenance of clinical efficacy, reliability and cost of manufacturing, regulatory approval requirements and standards and other important factors. There continues to be substantial and unpredictable risk and uncertainty related to manufacturing and supply until such time as the commercial supply chain is validated and proven.

Our revenue is exclusively derived from our collaboration agreements, which can result in significant fluctuation in our revenue from period to period, and our past revenue is therefore not necessarily indicative of our future revenue.

Our revenue is exclusively derived from our collaboration agreements, from which we receive upfront fees, contract research payments, milestone and other contingent payments based on clinical progress, regulatory progress or net sales achievements, royalties and manufacturing revenue. Significant variations in the timing of receipt of cash payments and our recognition of revenue can result from significant payments based on the execution of new collaboration agreements, the timing of clinical outcomes, regulatory approval, commercial launch or the achievement of certain annual sales thresholds. The amount of our revenue derived from collaboration agreements in any given period will depend on a number of unpredictable factors, including our ability to find and maintain suitable collaboration partners, the timing of the negotiation and conclusion of collaboration agreements with such partners, whether and when we or our collaboration partners achieve clinical, regulatory and sales milestones, the timing of regulatory approvals in one or more major markets, reimbursement levels by private and government payers, and the market introduction of new drugs or generic versions of the approved drug, as well as other factors. The application of ASC 606, Revenue Recognition-Revenue from contracts with customers, which will apply beginning in the first quarter of 2018, may have a material impact on revenue recognition under our collaboration agreements. Our past revenue generated from collaboration agreements is not necessarily indicative of our future revenue. If any of our existing or future collaboration partners fails to develop, obtain regulatory approval for, manufacture or ultimately commercialize any product candidate under our collaboration agreement, our business, financial condition, and results of operations could be materially and adversely affected.

If we are unable either to create sales, marketing and distribution capabilities or to enter into agreements with third parties to perform these functions, we will be unable to commercialize our product candidates successfully.

We currently have no sales, marketing or distribution capabilities. To commercialize any of our drugs that receive regulatory approval for commercialization, we must either develop internal sales, marketing and distribution capabilities, which would be expensive and time consuming, or enter into collaboration arrangements with third parties to perform these services. If we decide to market our products directly, we must commit significant financial and managerial resources to develop a marketing and sales force with technical expertise and with supporting distribution, administration and compliance capabilities. Factors that may inhibit our efforts to commercialize our products directly or indirectly with our partners include:

- our inability to recruit and retain adequate numbers of effective sales and marketing personnel;
- the inability of sales personnel to obtain access to or persuade adequate numbers of physicians to use or prescribe our products;
- the lack of complementary products or multiple product pricing arrangements may put us at a competitive disadvantage relative to companies with more extensive product lines; and
- unforeseen costs and expenses associated with creating and sustaining an independent sales and marketing organization.

If we, or our partners through our collaborations, are not successful in recruiting sales and marketing personnel or in building a sales and marketing infrastructure, we will have difficulty commercializing our products, which would adversely affect our business, results of operations and financial condition.

To the extent we rely on other pharmaceutical or biotechnology companies with established sales, marketing and distribution systems to market our products, we will need to establish and maintain partnership arrangements, and we may not be able to enter into these arrangements on acceptable terms or at all. To the extent that we enter into co-promotion or other arrangements, any revenue we receive will depend upon the efforts of third parties, which may not be successful and over which we have little or no control—important examples of this risk include MOVANTIK® partnered with AstraZeneca and ADYNOVATE® (previously referred to as BAX 855) partnered with Baxalta. In the event that we market our products without a partner, we would be required to build a sales and marketing organization and infrastructure, which would require a significant investment, and we may not be successful in building this organization and infrastructure in a timely or efficient manner.

We purchase some of the starting material for drugs and drug candidates from a single source or a limited number of suppliers, and the partial or complete loss of one of these suppliers could cause production delays, clinical trial delays, substantial loss of revenue and contract liability to third parties.

We often face very limited supply of a critical raw material that can only be obtained from a single, or a limited number of, suppliers, which could cause production delays, clinical trial delays, substantial lost revenue opportunities or contract liabilities to third parties. For example, there are only a limited number of qualified suppliers, and in some cases single source suppliers, for the raw materials included in our PEGylation and advanced polymer conjugate drug formulations. Any interruption in supply or failure to procure such raw materials on commercially feasible terms could harm our business by delaying our clinical trials, impeding commercialization of approved drugs or increasing our costs.

We rely on trade secret protection and other unpatented proprietary rights for important proprietary technologies, and any loss of such rights could harm our business, results of operations and financial condition.

We rely on trade secret protection for our confidential and proprietary information. No assurance can be given that others will not independently develop substantially equivalent confidential and proprietary information or otherwise gain access to our trade secrets or disclose such technology, or that we can meaningfully protect our trade secrets. In addition, unpatented proprietary rights, including trade secrets and know-how, can be difficult to protect and may lose their value if they are independently developed by a third party or if their secrecy is lost. Any loss of trade secret protection or other unpatented proprietary rights could harm our business, results of operations and financial condition.

We expect to continue to incur substantial losses and negative cash flow from operations and may not achieve or sustain profitability in the future.

For the nine months ended September 30, 2017, we reported a net loss of $62.9 million. If and when we achieve profitability depends upon a number of factors, including the timing and recognition of milestone and other contingent payments and royalties received, the timing of revenue under our collaboration agreements, the amount of investments we make in our proprietary product

candidates and the regulatory approval and market success of our product candidates. We may not be able to achieve and sustain profitability.

Other factors that will affect whether we achieve and sustain profitability include our ability, alone or together with our partners, to:

- develop drugs utilizing our technologies, either independently or in collaboration with other pharmaceutical or biotechnology companies;
- effectively estimate and manage clinical development costs, particularly the cost of the clinical studies for NKTR-214, NKTR-358, NKTR-262, and NKTR-255;
- receive necessary regulatory and marketing approvals;
- maintain or expand manufacturing at necessary levels;
- achieve market acceptance of our partnered products;
- receive royalties on products that have been approved, marketed or submitted for marketing approval with regulatory authorities; and
- maintain sufficient funds to finance our activities.

If government and private insurance programs do not provide payment or reimbursement for our partnered products or proprietary products, those products will not be widely accepted, which would have a negative impact on our business, results of operations and financial condition.

In both domestic and foreign markets, sales of our partnered and proprietary products that have received regulatory approval will depend in part on market acceptance among physicians and patients, pricing approvals by government authorities and the availability of payment or reimbursement from third-party payers, such as government health administration authorities, managed care providers, private health insurers and other organizations. Such third-party payers are increasingly challenging the price and cost effectiveness of medical products and services. Therefore, significant uncertainty exists as to the pricing approvals for, and the payment or reimbursement status of, newly approved healthcare products. Moreover, legislation and regulations affecting the pricing of pharmaceuticals may change before regulatory agencies approve our proposed products for marketing and could further limit pricing approvals for, and reimbursement of, our products from government authorities and third-party payers. For example, President Trump has indicated support for possible new measures related to drug pricing. New government legislation or regulations related to pricing or a government or third-party payer decision not to approve pricing for, or provide adequate coverage and reimbursements of, our products hold the potential to severely limit market opportunities of such products.

We depend on third parties to conduct the clinical trials for our proprietary product candidates and any failure of those parties to fulfill their obligations could harm our development and commercialization plans.

We depend on independent clinical investigators, contract research organizations and other third-party service providers to conduct clinical trials for our proprietary product candidates. We rely heavily on these parties for successful execution of our clinical trials. Though we are ultimately responsible for the results of their activities, many aspects of their activities are beyond our control. For example, we are responsible for ensuring that each of our clinical trials is conducted in accordance with the general investigational plan and protocols for the trials, but the independent clinical investigators may prioritize other projects over ours or communicate issues regarding our products to us in an untimely manner. Third parties may not complete activities on schedule or may not conduct our clinical trials in accordance with regulatory requirements or our stated protocols. The early termination of any of our clinical trial arrangements, the failure of third parties to comply with the regulations and requirements governing clinical trials or the failure of third parties to properly conduct our clinical trials could hinder or delay the development, approval and commercialization of our product candidates and would adversely affect our business, results of operations and financial condition.

Significant competition for our polymer conjugate chemistry technology platforms and our partnered and proprietary products and product candidates could make our technologies, products or product candidates obsolete or uncompetitive, which would negatively impact our business, results of operations and financial condition.

Our advanced polymer conjugate chemistry platforms and our partnered and proprietary products and product candidates compete with various pharmaceutical and biotechnology companies. Competitors of our polymer conjugate chemistry technologies include Biogen Inc., Savient Pharmaceuticals, Inc., Dr. Reddy’s Laboratories Ltd., SunBio Corporation, Mountain View Pharmaceuticals, Inc., Novo Nordisk A/S (formerly assets held by Neose Technologies, Inc.), and NOF Corporation. Several other chemical, biotechnology and pharmaceutical companies may also be developing polymer conjugation technologies or technologies

that have similar impact on target drug molecules. Some of these companies license or provide the technology to other companies, while others are developing the technology for internal use.

There are many competitors for our proprietary product candidates currently in development. For Amikacin Inhale, the current standard of care includes several approved intravenous antibiotics for the treatment of either hospital-acquired pneumonia or ventilator-associated pneumonia in patients on mechanical ventilators. For MOVANTIK®, there are currently several alternative therapies used to address opioid-induced constipation (OIC) and opioid-induced bowel dysfunction (OBD), including Symproic® (naldemedine) from Shionogi and Purdue Pharma L.P., RELISTOR® Subcutaneous Injection (methylnaltrexone bromide), oral therapy Amitizia (lubiprostone), and oral and rectal over-the-counter laxatives and stool softeners such as docusate sodium, senna and milk of magnesia. In addition, there are a number of companies developing potential products which are in various stages of clinical development and are being evaluated for the treatment of OIC and OBD in different patient populations, including Merck & Co., Inc., Progenics Pharmaceuticals, Inc. in collaboration with Salix Pharmaceuticals, Ltd., Purdue Pharma L.P. in collaboration with Shionogi & Co., Ltd., Mundipharma Int. Limited, Sucampo Pharmaceuticals, Inc., Develco Pharma GmbH, Alkermes plc, GlaxoSmithKline plc, Theravance, Inc., and Takeda Pharmaceutical Company Limited. For ADYNOVATE®, on June 6, 2014, the FDA approved Biogen Idec's Fc fusion protein ELOCTATE™ for the control and prevention of bleeding episodes, perioperative (surgical) management and routine prophylaxis in adults and children with Hemophilia A. Longer acting Factor VIII proteins based on polymer conjugation technology approaches are being pursued by Bayer Healthcare LLC (which has filed for regulatory approval in the U.S.) and Novo Nordisk (which has an ongoing Phase 3 clinical development program). In addition, technologies other than those based on Fc fusion and polymer conjugation approaches (such as gene therapy) are being pursued to treat patients with Hemophilia A. For NKTR-181, there are numerous companies developing pain therapies designed to have less abuse potential primarily through formulation technologies and techniques applied to existing pain therapies. Potential competitors include Acura Pharmaceuticals, Inc., Cara Therapeutics, Inc., Collegium Pharmaceutical, Inc., Egalet Ltd, Elite Pharmaceuticals, Inc., Endo Health Solutions Inc., KemPharm, Inc., Pfizer, Inc., Purdue Pharma L.P., and Teva Pharmaceutical Industries Ltd. For ONZEALD™ there are a number of chemotherapies and cancer therapies approved today and in various stages of clinical development for breast cancer, including, but not limited to: Abraxane® (paclitaxel protein-bound particles for injectable suspension (albumin bound)), Xeloda® (capecitabine), Afinitor® (everolimus), Doxil® (doxorubicin HCl), Ellence® (epirubicin), Gemzar® (gemcitabine), Halaven® (eribulin), Herceptin® (trastuzumab), Hycamtin® (topotecan), Ibrance® (palbociclib), Ixempra® (ixabepilone), Navelbine® (vinolrebine), Iniparib, Paraplatin® (carboplatin), Taxol® (paclitaxel) and Taxotere® (docetaxel). Major pharmaceutical or biotechnology companies with approved drugs or drugs in development for breast cancers include, but are not limited to, Bristol-Myers Squibb Company, Eli Lilly & Co., Roche, GlaxoSmithKline plc, Johnson and Johnson, Pfizer Inc., Eisai Inc., and Sanofi Aventis S.A. There are numerous companies engaged in developing immunotherapies to be used alone, or in combination, to treat a wide range of oncology indications targeting both solid and liquid tumors. In particular, we expect to compete with therapies with tumor infiltrating lymphocytes, or TILS, chimeric antigen receptor-expressing T cells, or CAR-T, cytokine-based therapies, and checkpoint inhibitors. Potential competitors in the TIL and CAR-T space include Kite Pharma/NCI, Adaptimmune LLC, Celgene Corporation, Juno Therapeutics, and Novartis, Alkermes, Altor, and Armo in the cytokine-based therapies space, and Tesaro, Macrogenics, Merck, BMS, and Roche in the checkpoint inhibitor space.

There can be no assurance that we or our partners will successfully develop, obtain regulatory approvals for and commercialize next-generation or new products that will successfully compete with those of our competitors. Many of our competitors have greater financial, research and development, marketing and sales, manufacturing and managerial capabilities. We face competition from these companies not just in product development but also in areas such as recruiting employees, acquiring technologies that might enhance our ability to commercialize products, establishing relationships with certain research and academic institutions, enrolling patients in clinical trials and seeking program partnerships and collaborations with larger pharmaceutical companies. As a result, our competitors may succeed in developing competing technologies, obtaining regulatory approval or gaining market acceptance for products before we do. These developments could make our products or technologies uncompetitive or obsolete.

If product liability lawsuits are brought against us, we may incur substantial liabilities.

The manufacture, clinical testing, marketing and sale of medical products involve inherent product liability risks. If product liability costs exceed our product liability insurance coverage, we may incur substantial liabilities that could have a severe negative impact on our financial position. Whether or not we are ultimately successful in any product liability litigation, such litigation would consume substantial amounts of our financial and managerial resources and might result in adverse publicity, all of which would impair our business. Additionally, we may not be able to maintain our clinical trial insurance or product liability insurance at an acceptable cost, if at all, and this insurance may not provide adequate coverage against potential claims or losses.

Our internal computer systems, or those of our CROs or other contractors or consultants, may fail or suffer security breaches, which could result in a material disruption of our product development programs or the theft of our confidential information or patient confidential information.

Despite the implementation of security measures, our internal computer systems and those of our contract research organizations (CROs) and other contractors and consultants are vulnerable to damage from computer viruses, unauthorized access, natural disasters, terrorism, war and telecommunication and electrical failures. Such events could cause interruptions of our operations. For instance, the loss of preclinical data or data from any future clinical trial involving our product candidates could result in delays in our development and regulatory filing efforts and significantly increase our costs. To the extent that any disruption or security breach were to result in a loss of, or damage to, our data, or inappropriate disclosure of confidential or proprietary information of our company or clinical patients, we could incur liability and the development of our product candidates could be delayed.

Our future depends on the proper management of our current and future business operations and their associated expenses.

Our business strategy requires us to manage our business to provide for the continued development and potential commercialization of our proprietary and partnered drug candidates. Our strategy also calls for us to undertake increased research and development activities and to manage an increasing number of relationships with partners and other third parties, while simultaneously managing the capital necessary to support this strategy. If we are unable to manage effectively our current operations and any growth we may experience, our business, financial condition and results of operations may be adversely affected. If we are unable to effectively manage our expenses, we may find it necessary to reduce our personnel-related costs through reductions in our workforce, which could harm our operations, employee morale and impair our ability to retain and recruit talent. Furthermore, if adequate funds are not available, we may be required to obtain funds through arrangements with partners or other sources that may require us to relinquish rights to certain of our technologies, products or future economic rights that we would not otherwise relinquish or require us to enter into other financing arrangements on unfavorable terms.

We are dependent on our management team and key technical personnel, and the loss of any key manager or employee may impair our ability to develop our products effectively and may harm our business, operating results and financial condition.

Our success largely depends on the continued services of our executive officers and other key personnel. The loss of one or more members of our management team or other key employees could seriously harm our business, operating results and financial condition. The relationships that our key managers have cultivated within our industry make us particularly dependent upon their continued employment with us. We are also dependent on the continued services of our technical personnel because of the highly technical nature of our products and the regulatory approval process. Because our executive officers and key employees are not obligated to provide us with continued services, they could terminate their employment with us at any time without penalty. We do not have any post-employment noncompetition agreements with any of our employees and do not maintain key person life insurance policies on any of our executive officers or key employees.

Because competition for highly qualified technical personnel is intense, we may not be able to attract and retain the personnel we need to support our operations and growth.

We must attract and retain experts in the areas of clinical testing, manufacturing, research, regulatory and finance, and may need to attract and retain marketing and distribution experts and develop additional expertise in our existing personnel. We face intense competition from other biopharmaceutical companies, research and academic institutions and other organizations for qualified personnel. Many of the organizations with which we compete for qualified personnel have greater resources than we have. Because competition for skilled personnel in our industry is intense, companies such as ours sometimes experience high attrition rates with regard to their skilled employees. Further, in making employment decisions, job candidates often consider the value of the stock options they are to receive in connection with their employment. Our equity incentive plan and employee benefit plans may not be effective in motivating or retaining our employees or attracting new employees, and significant volatility in the price of our stock may adversely affect our ability to attract or retain qualified personnel. If we fail to attract new personnel or to retain and motivate our current personnel, our business and future growth prospects could be severely harmed.

If earthquakes or other catastrophic events strike, our business may be harmed.

Our corporate headquarters, including a substantial portion of our research and development operations, are located in the San Francisco Bay Area, a region known for seismic activity and a potential terrorist target. In addition, we own facilities for the manufacture of products using our advanced polymer conjugate technologies in Huntsville, Alabama and own and lease offices in Hyderabad, India. There are no backup facilities for our manufacturing operations located in Huntsville, Alabama. In the event of an earthquake or other natural disaster, political instability, or terrorist event in any of these locations, our ability to manufacture and supply materials for drug candidates in development and our ability to meet our manufacturing obligations to our customers would be

significantly disrupted and our business, results of operations and financial condition would be harmed. Our collaborative partners may also be subject to catastrophic events, such as earthquakes, floods, hurricanes and tornadoes, any of which could harm our business, results of operations and financial condition. We have not undertaken a systematic analysis of the potential consequences to our business, results of operations and financial condition from a major earthquake or other catastrophic event, such as a fire, sustained loss of power, terrorist activity or other disaster, and do not have a recovery plan for such disasters. In addition, our insurance coverage may not be sufficient to compensate us for actual losses from any interruption of our business that may occur.

We have implemented certain anti-takeover measures, which make it more difficult to acquire us, even though such acquisitions may be beneficial to our stockholders.

Provisions of our certificate of incorporation and bylaws, as well as provisions of Delaware law, could make it more difficult for a third party to acquire us, even though such acquisitions may be beneficial to our stockholders. These anti-takeover provisions include:

- establishment of a classified board of directors such that not all members of the board may be elected at one time;
- lack of a provision for cumulative voting in the election of directors, which would otherwise allow less than a majority of stockholders to elect director candidates;
- the ability of our board to authorize the issuance of "blank check" preferred stock to increase the number of outstanding shares and thwart a takeover attempt;
- prohibition on stockholder action by written consent, thereby requiring all stockholder actions to be taken at a meeting of stockholders;
- establishment of advance notice requirements for nominations for election to the board of directors or for proposing matters that can be acted upon by stockholders at stockholder meetings; and
- limitations on who may call a special meeting of stockholders.

Further, provisions of Delaware law relating to business combinations with interested stockholders may discourage, delay or prevent a third party from acquiring us. These provisions may also discourage, delay or prevent a third party from acquiring a large portion of our securities or initiating a tender offer or proxy contest, even if our stockholders might receive a premium for their shares in the acquisition over the then-current market prices. We also have a change of control severance benefit plan, which provides for certain cash severance, stock award acceleration and other benefits in the event our employees are terminated (or, in some cases, resign for specified reasons) following an acquisition. This severance plan could discourage a third party from acquiring us.

The price of our common stock is expected to remain volatile.

Our stock price is volatile. During the three months ended September 30, 2017, based on closing prices on The NASDAQ Global Select Market, the closing price of our common stock ranged from $17.79 to $24.00 per share. We expect our stock price to remain volatile. A variety of factors may have a significant effect on the market price of our common stock, including the risks described in this section titled "Risk Factors" and the following:

- announcements of data from, or material developments in, our clinical studies and those of our collaboration partners, including data regarding efficacy and safety, delays in clinical development, regulatory approval or commercial launch;
- announcements by collaboration partners as to their plans or expectations related to drug candidates and approved drugs in which we have a substantial economic interest;
- announcements regarding terminations or disputes under our collaboration agreements;
- fluctuations in our results of operations;
- developments in patent or other proprietary rights, including intellectual property litigation or entering into intellectual property license agreements and the costs associated with those arrangements;
- announcements of technological innovations or new therapeutic products that may compete with our approved products or products under development;
- announcements of changes in governmental regulation affecting us or our competitors;
- litigation brought against us or third parties to whom we have indemnification obligations;
- public concern as to the safety of drug formulations developed by us or others;

- our financing needs and activities; and
- general market conditions.

At times, our stock price has been volatile even in the absence of significant news or developments. The stock prices of biotechnology companies and securities markets generally have been subject to dramatic price swings in recent years.

The indenture governing our 7.75% senior secured notes imposes significant operating and financial restrictions on us and our subsidiaries that may prevent us from pursuing certain business opportunities and restrict our ability to operate our business.

On October 5, 2015, we issued $250.0 million in aggregate principal amount of 7.75% senior secured notes due October 2020. The indenture governing the senior secured notes contains covenants that restrict our and our subsidiaries' ability to take various actions, including, among other things:

- incur or guarantee additional indebtedness or issue disqualified capital stock or cause certain of our subsidiaries to issue preferred stock;
- pay dividends or distributions, redeem equity interests or subordinated indebtedness or make certain types of investments;
- create or incur liens;
- transfer, sell, lease or otherwise dispose of assets and issue or sell equity interests in certain of our subsidiaries;
- incur restrictions on certain of our subsidiaries' ability to pay dividends or other distributions to the Company or to make intercompany loans, advances or asset transfers;
- enter into transactions with affiliates;
- engage in any business other than businesses which are the same, similar, ancillary or reasonably related to our business as of the date of the indenture; and
- consummate a merger, consolidation, reorganization or business combination, sell, lease, convey or otherwise dispose of all or substantially all of our assets or other change of control transaction.

This indenture also requires us to maintain a minimum cash and investments in marketable securities balance of $60.0 million. We have certain reporting obligations under the indenture regarding cash position and royalty revenue. The indenture specifies a number of events of default, some of which are subject to applicable grace or cure periods, including, among other things, non-payment defaults, covenant defaults, cross-defaults to other material indebtedness, bankruptcy and insolvency defaults, non-payment of material judgments, loss of any material business license, criminal indictment of the Company, and certain civil forfeiture proceedings involving material assets of the Company. Our ability to comply with these covenants will likely be affected by many factors, including events beyond our control, and we may not satisfy those requirements. Our failure to comply with our obligations could result in an event of default under our other indebtedness and the acceleration of our other indebtedness, in whole or in part, could result in an event of default under the indenture governing the senior secured notes.

The restrictions contained in the indenture governing the senior secured notes could also limit our ability to plan for or react to market conditions, meet capital needs or otherwise restrict our activities or business plans and adversely affect our ability to finance our operations, enter into acquisitions or to engage in other business activities that would be in our interest.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

None, including no purchases of any class of our equity securities by us or any affiliate pursuant to any publicly announced repurchase plan in the three months ended September 30, 2017.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

On August 4, 2017, we entered into a lease agreement with ARE-San Francisco No. 19, LLC (ARE) for 128,793 square feet of space (Premise) located at 455 Mission Bay Boulevard, San Francisco, California (Mission Bay Facility). The lease agreement became effective pursuant to an amendment thereto dated as of August 29, 2017 (the lease agreement and amendment thereto together, referred to as Lease), entered into between ARE and us concurrently with an amendment to the sublease dated as of September 30, 2009 (Sublease), between Pfizer Inc. (Pfizer) and us, pursuant to which we had subleased as a subtenant certain space of 102,283 square feet at the Mission Bay Facility from Pfizer as a tenant of such space from ARE.

The Lease will allow us to continue to use the same site we currently use for our San Francisco-based R&D activities. In addition, we are obligated to rent from ARE five additional premises for a total space of 24,410 square feet (Additional Required Space) at the Mission Bay Facility at specified delivery dates commencing from January 1, 2019. The monthly base rent for the Premise will escalate from $434,137 to $461,182 at various intervals between September 1, 2017 and January 31, 2020. Commencing on February 1, 2020, the monthly base rent for the Premise will be $611,767 and will escalate each year over the term at an annual rate of 3%. The monthly base rent for the Additional Required Spaces will be $4.75 per square foot and will escalate each year over the term at an annual rate of 3% starting from February 1, 2021. During the term of the Lease, we are responsible for paying our share of operating expenses specified in the Lease, including insurance costs and taxes. We have a right of first offer to increase the rental space at the Mission Bay Facility. The term of the Lease commenced on September 1, 2017 and will expire on January 31, 2030, subject to our right to extend the term for two consecutive five-year periods. The Lease includes various covenants, indemnities, defaults, termination rights, security deposits and other provisions customary for lease transactions of this nature.

The foregoing summary is qualified in its entirety by reference to the Lease, a copy of which is filed as an exhibit to this Quarterly Report on Form 10-Q for the period ended September 30, 2017.

Under the Sublease, we had originally subleased from Pfizer certain space of 102,283 square feet located at the Mission Bay Facility. The monthly base rent escalates over the term of the Sublease at various intervals to $349,808 during the final period of the Sublease term. The term of the Sublease would have terminated no later than January 30, 2020. In connection with the entering into the Lease, Pfizer and we amended the Sublease on August 29, 2017 to accelerate the termination date from January 30, 2020 to August 31, 2017. Please refer to Nektar’s Current Report on Form 8-K filed with the SEC on October 2, 2009, for a full description of the Sublease.

Item 6. Exhibits

Except as so indicated in Exhibit 32.1, the following exhibits are filed as part of, or incorporated by reference into, this Quarterly Report on Form 10-Q.

Exhibit Number	Description of Documents
10.1(1)	License Agreement effective as of August 23, 2017, by and between Eli Lilly and Company and Nektar Therapeutics.+
10.2(1)	Lease Agreement dated August 4, 2017, as amended by the First Amendment to Lease dated as of August 29, 2017, by and between ARE-San Francisco No. 19, LLC and Nektar Therapeutics.
31.1(1)	Certification of Nektar Therapeutics' principal executive officer required by Rule 13a-14(a) or Rule 15d-14(a).
31.2(1)	Certification of Nektar Therapeutics' principal financial officer required by Rule 13a-14(a) or Rule 15d-14(a).
32.1*	Section 1350 Certifications.
101**	The following materials from Nektar Therapeutics' Quarterly Report on Form 10-Q for the quarter ended September 30, 2017, formatted in XBRL (Extensible Business Reporting Language): (i) the unaudited Condensed Consolidated Balance Sheets, (ii) the unaudited Condensed Consolidated Statements of Operations, (iii) the unaudited Condensed Consolidated Statements of Comprehensive Income (Loss), (iv) the unaudited Condensed Consolidated Statements of Cash Flows, and (v) Notes to Condensed Consolidated Financial Statements.

+ Confidential treatment with respect to specific portions of this Exhibit has been requested, and such portions are omitted and have been filed separately with the SEC.

(1) Filed herewith.

* Exhibit 32.1 is being furnished and shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liability of that section, nor shall such exhibit be deemed to be incorporated by reference in any registration statement or other document filed under the Securities Act of 1933, as amended, or the Securities Exchange Act, except as otherwise stated in such filing.

** XBRL information is filed herewith.

SIGNATURES

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

By: /s/ GIL M. LABRUCHERIE

Gil M. Labrucherie
Senior Vice President and Chief Financial Officer
Date: November 7, 2017

By: /s/ JILLIAN B. THOMSEN

Jillian B. Thomsen
Senior Vice President, Finance and Chief Accounting Officer
Date: November 7, 2017

Exhibit 10.1

LICENSE AGREEMENT

between

NEKTAR THERAPEUTICS

and

ELI LILLY AND COMPANY

This **LICENSE AGREEMENT** (this "**Agreement**") is effective as of the HSR Clearance Date (the "**Effective Date**") and is entered into by and between:

NEKTAR THERAPEUTICS, a Delaware corporation ("**Nektar**"), having a place of business at 455 Mission Bay Boulevard South, Suite 100, San Francisco, California 94158;

and

ELI LILLY AND COMPANY, an Indiana corporation ("**Lilly**"), having a place of business at Lilly Corporate Center, Indianapolis, Indiana 46285.

INTRODUCTION

A. WHEREAS, Nektar has expertise in and is engaged in the research and development of potential pharmaceutical agents, which among other things, include Compounds that may be useful in the treatment of autoimmune diseases and other conditions, including the investigational compound known as NKTR-358, and further Proprietary experience in the development of PEG Reagents and the PEGylation of molecules.

B. WHEREAS, Lilly is engaged in the research, development, marketing, manufacturing and distribution of pharmaceutical products for use in humans and animals.

C. WHEREAS, the Parties desire to collaborate in the further development of one or more Compound products, which products, if successfully developed, would be commercialized by Lilly, all subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing premises and the following mutual covenants and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I

DEFINITIONS

1.1 **Interpretation**. In this Agreement, unless the context otherwise requires, a reference to:

(a)a paragraph, section, exhibit or schedule is a reference to a paragraph, section, exhibit or schedule to this Agreement;

(b)any document includes a reference to that document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;

(c)a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

(d)the singular includes the plural and vice versa, except as it regards the definitions of Party and Parties;

(e)one sex includes the other;

(f)“written” and “in writing” include any means of reproducing words, figures or symbols in a tangible and visible form, including acknowledged email or facsimile;

(g)a month or year is a reference to a calendar month or Calendar Year, as the case may be;

(h)“include”, “includes” and “including” means including without limitation, or like expression unless otherwise specified, and “for example”, “e.g.”, “such as” and similar words or phrases are descriptive, not limiting;

(i)“conventional T-cells” and “effector T-cells” means and refers to the same type of T-cell;

(j)the official text of this Agreement and any attachments shall be in English, and any Notices given or accounts or statements for communication between the Parties will be in English and in the event of any dispute concerning the construction or interpretation of this Agreement, reference shall be made only to this Agreement as written in English and not to any other translation into any other language; and

(k)“useful” means, when referring to data, information or intellectual property being disclosed, provided or otherwise transferred in order to engage in development, manufacturing or commercialization activities hereunder, that such data, information or intellectual property: (i) is useful to such applicable activity as reasonably determined by the Party; (ii) has been used by the Party for the manufacture, use or sale of a Compound or Product in the Field; or (iii) included in the abstract, disclosure or claims of any Patent licensed hereunder.

“**Action**” has the meaning set forth in Section 8.2.

“**Adverse Event**” means any untoward medical occurrence in a patient or human clinical investigation subject administered a pharmaceutical product and which does not necessarily have a causal relationship with this treatment.

“**Affiliate**” means any Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with a Party. For purposes of this definition, “control”, when used with respect to any specified Person, shall mean (a) the direct or indirect ownership of more than fifty percent (50%) of the total voting power of securities or other evidences of ownership interest in such Person or (b) the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

"**Agreement**" has the meaning set forth in the Preamble.

"**Alliance Manager**" has the meaning set forth in Section 3.5.

"**Biosimilar Product**" has the meaning set forth in Section 6.4(d)(ii).

"**BLA**" means (a) a Biologic License Application submitted and filed with the United States Food and Drug Administration (or successor regulatory agency) necessary for approval of a drug or biologic in connection with the commercial sale or use of such drug or biologic in conformance with applicable laws and regulations in the United States or (b) the equivalent application submitted to another Regulatory Agency.

"**Calendar Quarter**" means each successive period of three months ending on March 31, June 30, September 30 and December 31 of each Calendar Year; provided, that the first Calendar Quarter under this Agreement will be the period beginning on the Effective Date and ending on the end of the Calendar Quarter in which the Effective Date is encompassed and the last Calendar Quarter of the Term will be the period beginning on March 31, June 30, September 30 or December 31, as applicable, and ending on the effective date of expiration or termination of this Agreement.

"**Calendar Year**" means each successive period of twelve (12) months commencing on January 1 and ending on December 31; provided, that the first Calendar Year under this Agreement will be the period beginning on the Effective Date and ending on the end of the Calendar Year in which the Effective Date is encompassed and the last Calendar Year of the Term will be the period beginning on January 1 and ending on the effective date of expiration or termination of this Agreement.

"**Change of Control**" means, with respect to Nektar, (a) the sale or disposition to a Third Party of the assets of Nektar to which the subject matter of this Agreement relates, (b) the acquisition by a Third Party which constitutes one person, as such term is used in Section 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended, together with any of such person's "affiliates" or "associates," as such terms are defined in the Securities Exchange Act of 1934, other than an employee benefit plan (or related trust) sponsored or maintained by Nektar or any of its Affiliates or persons "acting in concert" as such term is used in the Internal Revenue Code, of more than fifty percent (50%) of the outstanding shares of voting capital stock of Nektar, (c) the acquisition, merger or consolidation of Nektar with or into another Person, other than, in the case of this definition, an acquisition or a merger or consolidation of Nektar in which the holders of shares of voting capital stock of Nektar, immediately prior to such acquisition, merger or consolidation will beneficially own, directly or indirectly, at least fifty percent (50%) of the shares of voting capital stock of the acquiring Third Party or the surviving entity in such acquisition, merger or consolidation, as the case may be, immediately after such acquisition, merger or consolidation, or (d) the sale or disposition to a Third Party of all or substantially all of the assets of Nektar.

"**Combination Product**" has the meaning set forth in the definition of Net Product Sales.

"**Commercially Reasonable Efforts**" or "**CRE**" means effort, expertise and resources normally used by the Party in the development and/or commercialization of a comparable pharmaceutical product Controlled by such Party which is of similar market potential at a similar stage of development or commercialization in light of issues of safety and efficacy, product profile, the competitiveness of the marketplace, the proprietary position of the compound or product, the regulatory structure involved, the profitability of the applicable products, product reimbursement and other relevant strategic and commercial factors normally considered by the Party in making product portfolio decisions. For purposes

of clarity, Commercially Reasonable Efforts will be determined on an Indication-by-Indication and country-by-country basis within the Territory, and it is anticipated that the level of effort may be different for different Indications and countries and may change over time, reflecting changes in the status of the Product and the Indications and country(ies) involved.

"**Committee**" has the meaning set forth in Section 3.1.

"**Competing Product**" means a pharmaceutical composition, preparation or formulation which contains or comprises a compound that: (a) is a conjugate between [***], on the one hand, and [***], on the other hand; (b) target(s) the interleukin-2 or aldesleukin pathway in order to specifically stimulate proliferation and growth of T-regulatory cells [***], or suppress an immune response [***]; *and* (c) is directed primarily to activity in the Field. For clarity, Competing Product does not include a [***].

"**Compound**" means (a) NKTR-358, as described in the attached **Schedule 1.1(a)**, (b) [***], and (c) during the period commencing on the Effective Date and ending on the First Commercial Sale of any Product (or earlier upon the termination or expiration of this Agreement) any other compound(s) that is a conjugate between [***] and for which all three of the following are present: (i) that is Controlled by Nektar or any of its controlled Affiliates; (ii) that target(s) the interleukin-2 or aldesleukin pathway in order to specifically stimulate proliferation and growth of T-regulatory cells [***], or suppress an immune response [***]; *and* (iii) that is directed primarily to activity in the Field. For clarity, "Compounds" excludes [***]. As an example, a Nektar Controlled compound that [***], but which also has [***], is not considered a Compound described under subclause (c).

"**Confidential Information**" means the terms and conditions of this Agreement (but not its existence), all confidential and proprietary information and materials, patentable or otherwise, in any form (written, oral, photographic, electronic, magnetic or otherwise), including, know-how, trade secrets, inventions or discoveries, processes, techniques, algorithms, patent information, financial and strategic information, databases, clinical trial endpoints, candidate selection criteria, technical information, specifications, data, formulae, intellectual property, software and other material and information of a Party relating to any products, projects or processes, including:

(a) all communications between the Parties or information of whatever kind whether recorded or not and, if recorded, in whatever medium, relating to or arising out of this Agreement, whether disclosed prior to or after entering into this Agreement;

(b) any information that a reasonable Person would understand to be the confidential information of the disclosing Party or that the Party indicates in writing is information of a confidential nature or which is marked "confidential"; and

(c) all copies and excerpts of the communications, information, notes, reports and documents in whatever form referred to in paragraph (a) or (b) of this definition.

Notwithstanding the foregoing, Confidential Information shall not include any information or materials that: (i) were already known to the receiving Party (other than under an obligation of confidentiality), at the time of disclosure by the disclosing Party; (ii) were generally available to the public or otherwise part of the public domain at the time of disclosure thereof to the receiving Party; (iii) became generally available to the public or otherwise part of the public domain after disclosure or development thereof, as the case may be, and other than through any act or omission of a Party in breach of such Party's confidentiality obligations under this Agreement; (iv) were disclosed to a Party, other than under an obligation of confidentiality, by a Third Party who had no obligation to the disclosing Party not

to disclose such information to others; or (v) were independently discovered or developed by or on behalf of the receiving Party without the use of the Confidential Information belonging to the other Party, to the extent such receiving Party has competent and credible evidence to that effect. For purposes of the confidentiality obligations set forth herein, (A) Lilly Technology, Lilly Materials, Lilly Inventions and all Technology generated exclusively by an employee, contractor or agent (other than Nektar or its Affiliates) of Lilly pursuant to this Agreement with respect to Compounds or Products shall be deemed Confidential Information of Lilly, (B) Confidential Information Controlled by Nektar or any of its Affiliates relating solely and exclusively to the Compound or Product or the exploitation of the Compound or Product but only to the extent permitted under the license granted under Section 2.1(a) of this Agreement (in each instance, other than solely and exclusively relating to PEGs, PEG Reagents or PEGylation) (the "**Product Specific Information**") shall be deemed Confidential Information of Lilly (and Lilly the disclosing Party, and Nektar the receiving Party, with respect thereto and regardless of the Party initially disclosing the same), and (C) subject to the foregoing subclause (B) (*i.e.*, excluding Product Specific Information), Nektar Technology, Nektar Materials, and Nektar Inventions shall be deemed Confidential Information of Nektar.

"**Control**" means, with respect to any material, information or intellectual property right, that a Party (a) owns such material, information or intellectual property right, or (b) has a license to or right to use or grant access to such material, information or intellectual property right, in each case of (a) or (b), without violating the terms of any agreement or other arrangement with a Third Party.

"**Cost Sharing Allocation**" has the meaning set forth in Section 4.11(a).

"**Deciding Party**" shall have the meaning set forth in Section 3.7(b).

"**Development Budget**" means the budget for anticipated Development Costs set forth in the Product Development Plan.

"**Development Costs**" means all internal and external costs and expenses incurred by a Party or its Affiliates (including, without replication, the cost of allocated FTEs at the FTE Rate) in developing the Products (including process validation costs), in each case to the extent incurred in accordance with this Agreement and with such Party's accounting methodologies generally and consistently applied. For clarity, Development Costs include, as applicable, costs and expenses incurred in connection with the performance of Phase I Studies, Phase II Studies, Phase II/III Studies, Phase III Studies and any other studies or trials conducted hereunder following receipt of Regulatory Approval, at any time.

"**Development Program**" means the work performed by Nektar and Lilly and/or their respective Affiliates, contractors or agents on behalf of Nektar or Lilly (as the context may require) under this Agreement in accordance with the Product Development Plan, including the Lilly Elected Activities and the Initial Development Activities.

"**Development Cost Reconciliation Procedures**" has the meaning set forth in Section 4.11(c)(i).

"**Dispute**" has the meaning set forth in Section 13.1.

"**DOJ**" has the meaning set forth in Section 12.19.

"**Effective Date**" has the meaning set forth in the Preamble.

"**Eli Lilly and Company Animal Care and Use Requirement for Animal Researchers and Suppliers**" has the meaning set forth in Section 4.8.

"**Eli Lilly and Company Good Research Practices**" has the meaning set forth in Section 4.8.

"**Exclusivity Period**" has the meaning set forth in Section 12.1(a).

"**Executive Officers**" shall have the meaning set forth in Section 3.7(b).

"**FDA**" has the meaning set forth in the definition of Regulatory Agency.

"**Field**" means the diagnosis, prevention, control, treatment or amelioration, in humans and other animals, of all diseases or conditions whose treatment requires an elevation of T-regulatory cells to suppress an immune response, including (a) [***] or conditions caused by [***], (b) [***] or conditions caused by [***], (c) [***] or conditions induced [***], (d) [***] or conditions induced [***], and (e) any other diseases or conditions that will benefit from [***]; inducing [***]; promoting [***]; restoring [***]; and preventing [***]. For clarity and without limiting the foregoing of the above, the following are not considered to be activities in the Field: (i) the use of a compound(s) (other than Compound) to suppress an immune response [***]; (ii) the use of a compound(s) that is a conjugate between [***] and [***] in order to treat [***]; or (iii) any use or activity of [***].

"**First Commercial Sale**" means the first sale in a country to a Third Party of any Product intended for use by an end-user customer of such Product in such country.

"**FTC**" has the meaning set forth in Section 12.19.

"**FTE**" means, with respect to an individual (other than an employee that details a Product), the equivalent of the work of one (1) employee (which might include temporary workers, such temporary workers not to exceed [***] of the total work force being utilized by a Party to perform its obligations under the Agreement) working full time under this Agreement for one (1) year (consisting of at least a total of [***] or [***] per year (excluding vacations and holidays)). Overtime, and work on weekends, holidays and the like (collectively or individually, the "**Overtime Work**") will not be counted with any multiplier (*e.g.*, time-and-a-half or double time) toward the number of hours that are used to calculate the FTE contribution, and such Overtime Work will not be considered at all for any employees paid on a salaried basis. One FTE may constitute work performed by an individual whose time is dedicated solely to an individual development or commercial activity hereunder, or may comprise the efforts of several individuals, each of whom dedicates only part of his or her time to work on an individual development or commercial activity hereunder.

"**FTE Rate**" means, for the period commencing on the Effective Date until such time as the Parties agree otherwise, [***] per FTE; provided, that the FTE Rate will be increased on [***] of each Calendar Year by a percentage equivalent to the change over the preceding Calendar Year in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CWUR0000SA0L1E). The FTE Rate is assumed to be a fully burdened rate and includes costs of salaries, benefits, supplies, travel, other employee costs, and supporting general and administration allocations for the Development Program specific activities contemplated under this Agreement, but does not include a margin or mark-up on such amounts.

"**Force Majeure**" has the meaning set forth in Section 12.8.

"**Full Share**" has the meaning set forth in Section 4.11(b).

"**Global Phase III Program**" means, on an Indication-by-Indication basis, all Phase III Studies and Phase II/III Studies necessary to file for, obtain and support BLAs for a Product globally for such Indication.

"**Good Clinical Practices**" or "**cGCP**" means all applicable current Good Clinical Practice standards for the design, conduct, performance, monitoring, auditing, recording, analyses and reporting of clinical trials, including, as applicable, (a) as set forth in the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use ("**ICH**") Harmonised Tripartite Guideline for Good Clinical Practice (CPMP/ICH/135/95) and any other guidelines for good clinical practice for trials on medicinal products in the Territory, (b) the Declaration of Helsinki (2004) as last amended at the 52nd World Medical Association in October 2000 and any further amendments or clarifications thereto, (c) U.S. Code of Federal Regulations Title 21, Parts 50 (Protection of Human Subjects), 56 (Institutional Review Boards) and 312 (Investigational New Drug Application), as may be amended from time to time, and (d) the equivalent applicable laws in any relevant country, each as may be amended and applicable from time to time and in each case, that provide for, among other things, assurance that the clinical data and reported results are credible and accurate and protect the rights, integrity and confidentiality of trial subjects.

"**Good Laboratory Practices**" or "**cGLP**" means all applicable current standards for laboratory activities for pharmaceuticals, as set forth in the FDA's Good Laboratory Practice regulations as defined in 21 C.F.R. Part 58 and/or the Good Laboratory Practice principles of the Organization for Economic Co-Operation and Development, and such standards of good laboratory practice as are required by the European Union and other organizations and governmental agencies in countries in which a Product is intended to be sold, to the extent such standards are not less stringent than United States Good Laboratory Practice.

"**Good Manufacturing Practices**" or "**cGMP**" means all applicable current Good Manufacturing Practices including, as applicable, (a) the principles detailed in the U.S. Current Good Manufacturing Practices, 21 C.F.R. Parts 4, 210, 211, 601, 610 and 820, (b) European Directive 2003/94/EC and Eudralex 4, (c) the principles detailed in the WHO TRS 986 Annex 2, TRS 961 Annex 6 and TRS 957 Annex 2, (d) ICH Q7 guidelines and (e) the equivalent applicable laws in any relevant country, each as may be amended and applicable from time to time.

"**Good Research Practices**" or "**cGRP**" means all applicable current Good Research Practices including, as applicable, (a) the research quality standards defining how Lilly's research laboratories conduct good science for non-regulated work as set forth in **Schedule 4.8 Part A** of this Agreement, (b) the Research Quality Association (RQA), 2014 Quality in Research Guidelines for Working in Non-Regulated Research, (c) the WHO Quality Practices in Basic Biomedical Research Guidelines and (d) the equivalent applicable laws if any, in any relevant country, each as may be amended and applicable from time to time.

"**GxP**" means compliance with all relevant Regulatory Agency requirements or guidance for Good Clinical Practices, Good Laboratory Practices, Good Manufacturing Practices and Good Research Practices.

"**HSR Act**" has the meaning set forth in Section 12.19.

"**HSR Clearance Date**" has the meaning set forth in Section 12.19.

"**ICH**" has the meaning set forth in the definition of Good Clinical Practices.

"IND" means any Investigational New Drug Application (including any amendments thereto) filed with the FDA pursuant to 21 C.F.R. §321 before the commencement of clinical studies of a Compound or Product, or any comparable filings with any Regulatory Agency in any other jurisdiction.

"**Indication**" means, with respect to a particular Product, the use of such Product for treating a separate and distinct disease or medical condition. For this purpose, as an example, different severities of the same disease or medical condition are not considered separate Indications.

"**Initial Development Activities**" means the development activities that the Parties intend to be primarily performed (subject to Section 4.4(a)) by Nektar in accordance with the initial Product Development Plan attached hereto as **Schedule 4.1**, including the performance of [***] and enabling activities to support additional stages of development.

"**Initial Development Phase**" means the period commencing on the Effective Date and expiring on the earlier of (a) the completion of the Initial Development Activities or (b) [***].

"**Initial Payment**" has the meaning set forth in Section 6.1.

"**Internal Compliance Code**" has the meaning set forth in Section 12.4.

"**Invention**" means inventions, ideas and/or discoveries, whether or not patentable, discovered, made, conceived and/or reduced to practice during the Term of this Agreement by one or more employee(s), contractor(s) or agent(s) of Nektar or Lilly or Affiliates of Nektar or Lilly, alone or jointly with each other and/or any Third Party, which arise from the performance of the Product Development Plan or any other activities under this Agreement, during the Term of this Agreement.

"**JPC**" has the meaning set forth in Section 3.1.

"**JPT**" has the meaning set forth in Section 3.1.

"**JSC**" has the meaning set forth in Section 3.1.

"**Joint Inventions**" means any Invention related to the Product that is discovered, made, conceived and/or reduced to practice jointly by Nektar's or its Affiliate(s)' employee(s), contractor(s) or agent(s), on the one hand, and Lilly's or its Affiliate(s)' employee(s), contractor(s) or agent(s), on the other hand.

"**Joint Patent Rights**" means Patent Rights claiming solely the subject matter of a Joint Invention.

"**Lilly**" has the meaning set forth in the Preamble.

"**Lilly Compound**" means a conjugate between [***], on the one hand, and [***], on the other hand that (a) target(s) [***], (b) is directed primarily to activity in the Field, and (c) is Controlled by Lilly.

"**Lilly Elected Activities**" means development activities that Lilly chooses to undertake during the Initial Development Phase in accordance with Section 4.4(b) (as opposed to Initial Development Activities that the Parties agree Lilly will undertake in accordance with Section 4.4(a)).

"**Lilly Indemnified Parties**" has the meaning set forth in Section 10.2.

"**Lilly Intellectual Property**" means Lilly Patent Rights, Lilly Technology, Lilly Inventions, Lilly's rights in Lilly Materials and Lilly's interest in any Joint Inventions.

"**Lilly Invention**" means any and all Inventions discovered, made, conceived and/or reduced to practice during the Term of this Agreement solely by one or more employee(s), contractor(s) or agent(s) (other than Nektar or its Affiliates) of Lilly or its Affiliates.

"**Lilly Materials**" means any compounds, assays or other materials that are Proprietary to Lilly and that are transferred to Nektar hereunder for the conduct of the Development Program. For the avoidance of doubt, Lilly Materials does not include any Compound or Product.

"**Lilly Patent Rights**" means any and all Patent Rights Controlled by Lilly and/or its Affiliate(s) during the Term that claim Lilly Technology, including those that cover the development, registration, manufacture, use, sale, importation or exportation of Compound or Product in the Field.

"**Lilly Technology**" means Technology (excluding Nektar Technology), including Lilly Materials, know-how and trade secrets Controlled by Lilly and/or its Affiliate(s) as of the Effective Date or made or developed by or on behalf of Lilly or its Affiliate(s) (other than by Nektar or its Affiliates) during the Term of this Agreement, in each instance that is necessary or useful (as such usefulness is reasonably determined by Lilly) for the manufacture, use or sale of Compound or Product in the Field.

[***] has the meaning set forth in [***].

"**Major Markets**" means the United States, [***].

"**Minimum Royalty Tiers**" has the meaning set forth in Section 6.4(b).

"**Multi-specific Compound**" means a compound that targets [***].

"**Nektar**" has the meaning set forth in the Preamble.

"**Nektar Controlled Patents**" means the Nektar Patent Rights set forth on **Schedule 1.1(d)**, as the same may be amended from time to time by the Parties, including all provisional and non-provisional applications, reissues, extensions, substitutions, confirmations, re-registrations, re-examinations, re-validations, patents of addition, supplementary protection certificates or the equivalents thereof, continuations, continuations-in-part and divisionals and all foreign counterparts of any of the foregoing.

"**Nektar Exclusive Patents**" means the Nektar Patent Rights set forth on **Schedule 1.1(e)**, as the same may be amended from time to time by the Parties (including in accordance with Section 7.9), including all provisional and non-provisional applications, reissues, extensions, substitutions, confirmations, re-registrations, re-examinations, re-validations, patents of addition, supplementary protection certificates or the equivalents thereof, continuations, continuations-in-part and divisionals and all foreign counterparts of any of the foregoing.

"**Nektar Increased Commitment Option**" has the meaning set forth in Section 4.11(a).

"**Nektar Indemnified Parties**" has the meaning set forth in Section 10.1.

"**Nektar Intellectual Property**" means Nektar Patent Rights, Nektar Technology, Nektar Inventions, Nektar's rights in any Nektar Materials and Nektar's interest in any Joint Inventions.

"**Nektar Invention**" means any and all Inventions discovered, made, conceived and/or reduced to practice during the Term of this Agreement solely by one or more employee(s), contractor(s) or agent(s) (other than Lilly or its Affiliates) of Nektar or its Affiliates.

"**Nektar Materials**" means any PEG, PEG Reagents, Compounds, assays, cell banks or other materials that are Proprietary to Nektar and that are disclosed or otherwise made available to Lilly hereunder for the conduct of the Development Program, including the PEG, PEG Reagents, Compounds, assays, cell banks, and other such proprietary materials.

"**Nektar Patent Rights**" means any and all Patent Rights Controlled by Nektar and/or its Affiliate(s) during the Term that claim Nektar Technology, including those that cover the development, registration, manufacture, use, sale, importation or exportation of Compound or Product in the Field, including: (a) the Nektar Exclusive Patents and (b) the Nektar Controlled Patents.

"**Nektar Share**" has the meaning set forth in Section 4.11(b).

"**Nektar Technology**" means Technology Controlled by Nektar (excluding Lilly Technology), including Nektar Materials, know-how (including know-how regarding PEGylation) and trade secrets Controlled by Nektar and/or its Affiliate(s) as of the Effective Date, or made or developed by or on behalf of Nektar or its Affiliate(s) (other than by Lilly or its Affiliates) during the Term of this Agreement, in each instance that is necessary or useful (as such usefulness is reasonably determined by Nektar) for the development, registration, manufacture, use or sale of Compound or Product in the Field.

"**Net Product Sales**" means, with respect to a particular Product, the gross amount invoiced by Lilly (including any Affiliate of Lilly) or any sublicensee of Lilly or of a Lilly Affiliate to unrelated Third Parties (except as described below), for such Product in the Territory, less (without duplication or double-counting) the following deductions from such gross amounts which are actually incurred, allowed, paid, accrued or specifically allocated for such Product:

[***]; and

(g) Any other similar and customary deductions which are in accordance with U.S. Generally Accepted Accounting Principles ("**U.S. GAAP**").

To be clear, the following transfers are not included in Net Sales of a Product, even if such transfer is for value received: (i) transfers to sublicensees or unrelated Third Parties performing activities in connection with a Development Program (*e.g.*, clinical trial partners, ex-US commercial partners, etc.); and (ii) transfers to sublicensees from whom royalties are paid to Nektar on subsequent Net Product Sales by such sublicensee.

Such amounts shall be determined from the books and records of Lilly or sublicensee maintained and consistently applied from time to time in accordance with U.S. GAAP or, in the case of sublicensees, such similar accounting principles consistently applied. Lilly further agrees in determining such amounts, it will use Lilly's then current standard procedures and methodology consistently applied, including Lilly's then current standard exchange rate methodology for the translation of foreign currency sales into U.S. dollars or, in the case of sublicensees, such similar methodology, consistently applied.

In the event that the Product is sold as part of a Combination Product (where "**Combination Product**" means any pharmaceutical product which comprises the Product and any other active compound(s)), the Net Product Sales of the Product, for the purposes of determining royalty payments, shall be determined by multiplying the [***] by [***].

In the event that the [***] sale price of the Product can be determined but the [***] sale price of the other product(s) cannot be determined, Net Product Sales for purposes of determining royalty payments shall be calculated by multiplying [***].

In the event that the [***] sale price of the other product(s) can be determined but the [***] sale price of the Product cannot be determined, Net Product Sales for purposes of determining royalty payments shall be calculated by multiplying [***].

Notwithstanding anything herein to the contrary, in the event that the [***] sale price of both the Product and the other product(s) in the Combination Product cannot be determined by the Parties, or the Parties cannot otherwise agree on the allocation of value among Combination Products, the Net Product Sales of the Product shall be determined, [***]**.**

For purposes of calculating Net Product Sales as part of a Combination Product only, the [***] sale price for a Product, other product, or Combination Product shall be calculated [***] and such price shall be used during all applicable royalty reporting periods for the [***]. When determining the [***] sale price of a Product, other product or Combination Product for this purpose, the [***] sale price shall be calculated by [***].

"**No Share**" has the meaning set forth in Section 4.11(b).

"**Notice**" has the meaning set forth in Section 12.10.

"**Notices and Consents**" has the meaning set forth in Section 10.3(k) .

[***] has the meaning set forth in [***].

[***] has the meaning set forth in [***].

"Other Action" has the meaning set forth in Section 8.3.

"**Overtime Work**" has the meaning set forth in the definition of FTE.

"**Parties**" means Nektar and Lilly.

"**Party**" means Nektar or Lilly.

"**Party Specific Regulations**" has the meaning set forth in Section 12.3.

"**Partial Share**" has the meaning set forth in Section 4.11(b).

"**Patent(s)**" means any and all patents and patent applications, including provisional and non-provisional applications, reissues, extensions, substitutions, confirmations, re-registrations, re-examinations, re-validations, patents of addition, supplementary protection certificates or the equivalents thereof, continuations, continuations-in-part and divisionals and all foreign counterparts of any of the foregoing.

"**Patent Rights**" means rights under all Patents.

"**PEG**" means poly(ethylene) glycol.

"**PEG Reagent**" means a PEG derivative used in the manufacture of a Compound.

"**PEGylation**", with correlative meanings "**PEGylated**" or to "**PEGylate**", means covalent chemical bonding of any PEG reagent (including a PEG Reagent and including covalent chemical bonding through linking groups), with or to another material or materials. Such materials include: proteins, peptides, polymers, oligomers, oligonucleotides, other biomolecules, small molecules, therapeutic agents, diagnostic agents, imaging agents and detectable labels. PEGylation shall include the synthesis, derivatization, characterization, and modification of PEG for such purposes, together with the synthesis, derivatization, characterization and modification of the raw materials and intermediates for the manufacture of reagents (including PEG Reagents), Compounds or Products incorporating such reagent by means of covalent chemical bonding, and all methods of making and using each and all of the foregoing.

"**Person**" means an individual, firm, company, corporation, association, trust, estate, state or agency of a state, government or government department or agency, municipal or local authority and any other entity, whether or not incorporated and whether or not having a separate legal personality.

"**Phase I Study**" means a clinical trial of a Product generally consistent with 21 CFR §312.21(a) or equivalent trial outside of the United States.

"**Phase II Study**" means a clinical trial of a Product generally consistent with 21 CFR §312.21(b) or equivalent trial outside of the United States.

"**Phase II/III Study**" means a clinical trial of a Product that is (a) a Phase II Study combined with a Phase III Study, and (b) an adaptive design that includes a prospectively planned opportunity for modification of one or more specified aspects of the clinical trial design and hypothesis based on analysis of data (usually interim data) from subjects in such clinical trial.

"**Phase III Study**" means a clinical trial of a Product generally consistent with 21 CFR §312.21(c) or equivalent trial outside of the United States, which, for clarity, includes any open label extension.

"**Product**" means any pharmaceutical composition, preparation or formulation which contains or comprises one or more Compounds.

"**Product Development Plan**" means the written Product development plans, as amended from time to time in accordance with this Agreement.

"**Product Specific Information**" has the meaning set forth in the definition of Confidential Information.

"**Proprietary**" means Controlled by a particular Party and not available to the public for general use.

"**Quality Agreement**" means the document developed, approved, and updated by the Parties that sets forth the quality expectations, responsibilities, rights (including, as applicable and agreed upon, audit

requirements) and requirements relating to the manufacture and supply of Product as executed hereunder, and/or relating to supply of Product for clinical trials.

"**Reasonable Efforts Period**" has the meaning set forth in Section 5.3.

"**Regulatory Agency**" means any one of the following: United States Food and Drug Administration ("**FDA**") or any successor agency; or any equivalent agency thereof in jurisdictions outside of the U.S.

"**Regulatory Approval**" means any and all approvals (including BLAs, supplements, amendments and pre- and post-approvals), licenses, registrations or authorizations (including marketing and labeling authorizations) of any national, supra-national (*e.g.*, the European Commission or the Council of the European Union), regional, state or local Regulatory Agency, department, bureau, commission, council or other governmental entity, that are necessary for the manufacture, distribution, use, storage, import, transport or sale of a Product in a given jurisdiction.

"**Regulatory Exclusivity**" means any exclusive marketing rights or data exclusivity rights conferred by any Regulatory Agency with respect to a Product other than Patent Rights.

"**Regulatory Milestone**" has the meaning set forth in Section 6.2(a).

"**Regulatory Milestone Payment**" has the meaning set forth in Section 6.2(b).

"Review Period" has the meaning set forth in Section 2.7.

"**Royalty Term**" has the meaning set forth in Section 6.4(a).

[***] has the meaning set forth in [***].

"**Safety Regulatory Agreement**" means the safety-regulatory agreement by and between Lilly and Nektar setting forth the obligations of both Parties related to the management of safety and regulatory information for Product.

"**Technology**" means written specifications, biological and other tangible materials, sketches, drawings, schematics, prototypes, methods, protocols, know-how, trade secrets, all Proprietary data, information, Inventions, regulatory submissions or other intellectual property of any kind, excluding Patent Rights.

"**Term**" shall have the meaning set forth in Section 11.1.

"**Territory**" means worldwide.

"**Third Party**" means any Person, other than Nektar or Lilly and their respective Affiliates.

"**U.S.**" means the United States of America.

"**U.S. Co-Promotion and Medical Support Agreement**" has the meaning set forth in Section 5.4.

"**U.S. Co-Promotion Negotiation Period**" has the meaning set forth in Section 5.4.

"**U.S. Co-Promotion Option**" has the meaning set forth in Section 5.4.

"**U.S. GAAP**" has the meaning set forth in the definition of Net Product Sales.

"**Valid Claim**" means either (a) a claim of an issued and unexpired Patent within the Nektar Patent Rights that covers the composition of matter for a particular Product, or an approved use of a particular Product, and which has not been held permanently revoked or held unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, which decision is not appealable or has not been appealed within the time allowed for appeal or has not been disclaimed, denied or found or admitted to be invalid or unenforceable through re-examination, reissue or disclaimer or otherwise; or (b) a bona fide claim of a pending Patent application included within the Nektar Patent Rights that covers the composition of matter for a particular Product, or an approved use of a particular Product, and which has not been (i) cancelled, withdrawn or abandoned without being refiled in another application in the applicable jurisdiction or (ii) finally rejected by an administrative agency action from which no appeal can be taken or that has not been appealed within the time allowed for appeal; provided, that any claim in any Patent application pending for more than [***] from the earliest date on which such Patent application claims priority shall not be considered a Valid Claim for purposes of the Agreement from and after such [***] date unless and until a Patent containing such claim issues from such Patent application.

"**Working Group**" has the meaning set forth in Section 3.6.

ARTICLE II

LICENSES

2.1 **License Grant to Lilly**.

(a)License. Subject to the terms and conditions of this Agreement, Nektar hereby grants to Lilly and its Affiliates an exclusive, royalty bearing, sub-licensable (through multiple tiers) (but only sublicensable in accordance with Section 2.2) license under Nektar Intellectual Property to develop, register, make and have made (including the PEG Reagents in accordance with Section 5.1 and Section 5.2), use, sell, have sold, offer for sale, import, and export, Compounds and Products in the Field and in the Territory.

(b)Nektar Covenant. Nektar covenants that it will not: (a) take any action that would impose or result in a lien, charge or encumbrance of Nektar Intellectual Property that would prevent or limit Lilly's exercise of its rights under the exclusive license granted to Lilly under Section 2.1(a); or (b) assign, transfer, convey or otherwise grant to any Person: (i) any rights to any Nektar Intellectual Property (or any rights to any intellectual property that would otherwise be included in the Nektar Intellectual Property if not assigned, transferred, conveyed or otherwise granted to a Third Party), in any manner that is inconsistent with the exclusive license granted to Lilly pursuant to Section 2.1(a); or (ii) any rights to any Products or Compounds that are inconsistent with the exclusive license granted to Lilly pursuant to Section 2.1(a).

2.2 **Sublicenses**. Subject to the terms and conditions of this Agreement, Lilly and its Affiliates shall have the right to sublicense any and all rights licensed to Lilly under Section 2.1(a); provided, that Lilly and its Affiliates will not sublicense the rights licensed to Lilly under Section 2.1(a) in the [***] prior to initiating a [***] for a Product in the [***]. Any such sublicense by Lilly or its Affiliates shall be consistent with and subject to the terms of this Agreement, and shall include an

obligation for each such sublicensee to comply with the applicable obligations of Lilly set forth in this Agreement. Lilly shall remain liable to Nektar for the performance by its Affiliates or its or their sublicensee of all Lilly duties and obligations according to the terms and conditions of this Agreement, whether such duties and obligations are to be performed by Lilly, by its Affiliates or its or their sublicensee (including all amounts to be paid under Article V and Article VI). Except as set forth above, no sublicense rights are granted hereunder to the Nektar Intellectual Property. To be clear, Lilly and its Affiliates have the right hereunder to sublicense to service providers providing services on behalf of Lilly or its Affiliates, including in the [***] at all times.

2.3 **Trademarks**. Lilly will be free to use and to register in any trademark office in the Territory, at its sole cost, any trademark for use with a Product in its sole discretion; provided, nothing herein shall grant Lilly any right to use any trademark of Nektar and/or its Affiliates except that Lilly shall have the right to use any trademark as required by applicable law in the development, manufacturing or commercialization of Compounds or Products. Lilly will own all right, title and interest in and to any such trademark in its own name during and after the Term.

2.4 **Technology Transfer**. In accordance with Section 4.3 and Section 5.2. Nektar will transfer, disclose or deliver to Lilly, or a contract manufacturer or service provider designated by Lilly, [***] (and will use [***] to obtain [***], as applicable).

2.5 **License Grants to Nektar**. Subject to the terms and conditions of this Agreement, Lilly hereby grants to Nektar during the Term of this Agreement, a non-exclusive, non-royalty bearing, non-sub-licensable (except to Affiliates of Nektar or Third Parties providing services for the benefit of Nektar or its Affiliates under and in accordance with this Agreement, and in each instance provided that: (i) Nektar shall remain liable to Lilly for the performance of any such Affiliate or sublicensee; and (ii) any such sublicense by Nektar shall be consistent with and subject to the terms of this Agreement and shall include an obligation for each such sublicensee to comply with the applicable obligations of Nektar set forth in this Agreement), fully paid-up, worldwide license under Lilly Intellectual Property (and under the Nektar Intellectual Property licensed to Lilly under Section 2.1(a)) solely to the extent necessary or useful (as such usefulness is reasonably determined by Lilly) for Nektar to perform its duties and obligations according to the Development Program or as otherwise required under this Agreement.

2.6 **No Implied License**. Nothing in this Agreement shall be deemed to constitute the grant of any license or other right to either Party in respect of any intellectual property of the other Party, except as expressly set forth herein, and no license rights shall be created hereunder by implication, estoppel or otherwise. Neither Party shall represent to any Third Party that it enjoys, possesses or exercises any proprietary or property right or otherwise has any other right, title or interest in the intellectual property of the other Party except for such rights as are expressly set forth herein. Any and all rights of a Party not expressly granted to the other Party under the provisions of this Agreement shall be retained by such Party.

2.7 **Lilly Compound** [***].

ARTICLE III

GOVERNANCE

3.1 **Formation and Composition**. The Parties will establish three (3) committees in connection with this Agreement: (a) a joint steering committee, consisting of [***] members ([***] of [***]) (the "**JSC**"), (b) a joint product team, consisting of [***] members [***] or such other number as

the JSC may agree upon (with an equal number of named representatives of each of Lilly and Nektar or as otherwise determined by the JSC) (the "**JPT**"), and (c) a joint patent committee, consisting of [***] from each Party or such other number as the JSC may agree upon (with [***] from [***] (the "**JPC**", and along with the JSC and JPT, each a "**Committee**"). Each Party's representatives shall have decision making authority on behalf of the Party it represents pursuant to this Article III. The initial named representatives of each Party for each Committee will be appointed on or [***] following the Effective Date. Each Party will provide the other Party in writing with the name, title, e-mail address and telephone number of their initial Committee members. Other elements relating to the composition of governance include:

(a)Meeting Frequency. Subject to Section 3.7, the Committees will meet as frequently as both Parties agree is appropriate, but not less than [***] per [***] for the JSC and [***] per [***] for the JPC and JPT. Such meetings will be at such times as are agreed to by Nektar and Lilly, and will alternate between the offices of the Parties unless the Parties otherwise agree, or will be in such other form (*e.g.*, telephone or video conference) as the members of the respective Committee may agree;

(b)Additional Participants. Employees, contractors or other representatives of either Party or its Affiliates will be permitted to attend such meetings upon advance communication to the other Party, with the Committee members reserving the right to excuse any and all such non-members from any such meeting at their sole discretion. Each Party will be responsible for all costs incurred by it relating to such meetings; and

(c)Replacements. Each Party may, in its sole and absolute discretion, appoint a reasonably comparable replacement(s) for its representative to either Committee, or resign from any and all Committees. Such Party shall provide prompt Notice in writing of such replacement or resignation to the other Party.

3.2 **JSC Functions and Powers**. The JSC will be responsible for the overall oversight of the Development Program. The principal functions of the JSC will include:

[***].

In the event Nektar exercises the US Co-promotion Option, the Parties shall discuss as part of negotiating the U.S. Co-Promotion and Medical Support Agreement the roles of the JSC as it relates thereto.

3.3 **JPC Functions and Power**. The JPC will be responsible for the coordination of the Parties' efforts in respect of managing the preparation, filing, prosecution, maintenance, enforcement and defense of [***] Patent Rights (including [***]) in accordance with the provisions set forth in Article VII and Article VIII. The principal functions of the JPC will include:

[***].

3.4 **JPT Functions and Power**. The JPT will be responsible for the operational implementation of the Development Program, including facilitating the sharing of information and coordinating progress of joint aspects of the Development Program consistent with each Party's internal policies and procedures and the terms of this Agreement. The principal functions of the JPT will include:

[***]; and

(vii) such other functions as agreed by the Parties.

Members of the JPT may be represented at any meeting by a deputy.

3.5 **Alliance Managers**. Each Party will appoint an individual designated as the alliance manager ("**Alliance Manager**"). The Alliance Managers will be on the JPT and will be the main point of contact for each Party to exchange information, facilitate communication and coordinate the Parties' activities under this Agreement relating to the Product and to provide support to the Committees. Upon Notice to the other Party, either Party may permit additional employees and consultants to attend and participate (on a non-voting basis) in the Committee meetings, subject to the confidentiality and other provisions of this Agreement, unless the other Party reasonably objects.

3.6 **Working Groups**. From time to time, the JSC may establish a working group (each, a "**Working Group**") to oversee particular projects or activities. Each Working Group shall undertake the activities delegated to it by the JSC. During the process of establishing each Working Group, such Working Group and the JSC shall agree regarding which matters such Working Group will resolve on its own and which matters such Working Group will advise the JSC regarding (and with respect to which such advice-specific matters the JSC will resolve).

3.7 **Committee Decisions**.

(a)Decision Process. In conducting its activities, each Committee and Working Group shall operate and make decisions consistent with the terms of this Agreement. With respect to decisions of each Committee or Working Group, each co-chair of each Party shall have one vote and final decisions of such Committee or Working Group shall require unanimity subject to the dispute resolution provisions below.

(b)Dispute Resolution.

(i)*JPT, JSC or any Working Group.* Deadlocks arising in the JPT or any Working Group or Committee, except the JSC or JPC, will be referred to the Alliance Managers for resolution and if the Alliance Managers are unable to resolve that dispute within [***] of the matter being referred to them, then the matter shall be referred to the JSC for resolution. Deadlocks in the JSC will be referred to the Chief Executive Officer of Nektar and either the Executive Vice President of Science and Technology (or equivalent role) or the President of the Biomedicine Business unit (or equivalent role) at Lilly (the "**Executive Officers**") for final resolution, and if no agreement is reached by such executives within [***] of such deadlock being referred, then such deadlock shall be resolved consistent with (i) subject to the following subclause (ii), [***], but with respect to NKTR-358 only, or (ii) consistent with [***], and at all times with respect to [***] (other than with respect to [***]) (as applicable, [***]), in each case subject to the [***] considering in good faith the [***] with respect thereto.

(ii)*JPC*. Deadlocks in the JPC will be referred to the Executive Officers for final resolution, and if no agreement is reached by such executives within [***] of such deadlock being referred, then such deadlock shall be resolved consistent with [***], unless [***], in which case the provisions of Article VII and Article VIII shall determine which Party shall have control and the final decision-making authority with respect to matters related to the prosecution, maintenance, enforcement and defense of Patents.

(c)Scope. The Committees shall have no authority to amend, modify or waive compliance with the terms and conditions of this Agreement, or to interpret, alter, increase, expand, or waive compliance by a Party with, a Party's obligations under this Agreement, it being understood that [***], with respect to NKTR-358 only, and [***] and at all times with respect to the [***] (other than with respect to NKTR-358 [***]). Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed that in no event shall a Committee or Deciding Party have any authority or right to amend the rights and obligations of the Parties under this Agreement or impose (whether pursuant to the Development Program, the Product Development Plan or otherwise) any responsibility, cost, obligation or other burden on the other Party without the other Party's prior written consent. For purposes of clarity, a Party's written consent as referenced above shall have been deemed to have been provided in the event such Party's member(s) of the JSC approve or consent in writing to a commitment upon such Party's behalf through the JSC process as described in this Article III of this Agreement.

3.8 **Co-Chairs**. Each Committee and Working Group shall have co-chairpersons. Nektar and Lilly shall [***] select [***] for each of the Committees and Working Groups, and each Party may change its designated [***] from time to time upon written notice to the other Party. The co-chairpersons of each Committee and Working Group, with assistance and guidance from the Alliance Managers, shall be responsible for calling meetings, preparing and circulating an agenda in advance of each meeting of such Committee or Working Group; provided that the Committee or Working Group co-chairpersons shall call a meeting of the applicable Committee or Working Group promptly upon the written request of either co-chairperson to convene such a meeting.

3.9 **Minutes and Reports**. Each Committee and Working Group will be responsible for keeping accurate minutes of its deliberations that record all proposed decisions and all actions recommended or taken. Within [***] of each meeting, the chair will provide the Parties with draft minutes of such meeting. Minutes will be deemed approved unless either Party's representative objects to the accuracy of such minutes or accompanying report by providing Notice to the other Party's representative within [***] of receipt of such minutes and report. In the event that any such objection is not resolved by the applicable Committee or Working Group, such minutes and accompanying report will be amended to reflect such unresolved dispute. Subject to the terms and conditions of this Agreement, all records of the Committees and Working Groups will be considered Confidential Information of, and be available to, both Parties.

3.10 **Information and Results**. Except as otherwise provided in this Agreement, the Parties will make available and disclose to one another all material results of work conducted pursuant to the Development Program prior to and in preparation for each applicable Committee or Working Group meetings, by the deadline and in the form and format to be designated by the applicable Committee or Working Group; provided, that Lilly has no obligation to share any trade secrets related to either the delivery device, cell line or cell culture media Lilly may develop in connection with the Compound or Product.

3.11 **Dissolution of the Committees and Working Groups**. Unless the Parties otherwise mutually agree in writing, for so long as the Parties continue to pursue a Development Program in respect of a Product, then on a Product by Product basis until the [***] the date that such Product has achieved [***] in the [***] the completion of the [***], the JSC and JPT shall continue in full force and effect. In this same regard, the JPC shall continue to meet and confer in accordance with the terms set forth herein until the expiration of the [***].

ARTICLE IV

DEVELOPMENT AND REGULATORY

4.1 **Establishment of Development Program**. Nektar and Lilly will act in good faith, using Commercially Reasonable Efforts, to perform their assigned tasks and responsibilities as described in the Product Development Plan, including the initial Product Development Plan attached hereto as **Schedule 4.1**.

4.2 **Product Development Plan**. The Development Program will be conducted in accordance with the Product Development Plan that describes the work to be pursued by Nektar and Lilly during each Calendar Year. The Product Development Plan may be updated and approved by the JSC (in addition to the regular review and updates provided by the JPT under this Agreement and subject to the dispute resolution provisions of Section 3.7(b)) in its discretion at any time provided such modified Product Development Plan is consistent with this Agreement.

4.3 **Know-How Sharing; Availability of Employees**. Promptly after the Effective Date (and in no event longer than [***] after the Effective Date), Nektar shall disclose and/or deliver to Lilly copies of all data and information [***] (and will use [***] to obtain all data and information [***]) relating to the development, registration, use or sale of Compounds to the extent necessary or useful (as such usefulness is reasonably determined by [***]) for Lilly's performance under this Agreement. Upon Lilly's reasonable request Nektar will provide [***] to Lilly during such disclosure or delivery set forth in the preceding sentence. Nektar agrees to [***] on issues arising during the Development Program and in connection with any request related to a Product or the Development Program [***]. To be clear, the transfer of Technology in respect of manufacturing the Compound or Product shall be as set forth in Section 5.2.

4.4 **Initial Development Phase**.

(a)Initial Development Activities. Nektar shall be responsible for all elements of the Product Development Plan delegated to it therein, including being responsible for carrying out the Phase I Study [***] for NKTR-358, and the other Initial Development Activities, in each case, as described in the initial Product Development Plan attached as **Schedule 4.1**; provided, that the Parties may mutually agree in writing (including in the form of an amended Product Development Plan) that Lilly should be responsible for performing certain Initial Development Activities.

(b)Lilly Elected Activities; Expiration of Initial Development Phase.

(i)*Lilly Elected Activities*. During the Initial Development Phase, Lilly may propose that certain additional development activities [***] be conducted that are not included in the initial Development Plan attached as **Schedule 4.1**. If Nektar [***] accordingly. If Nektar [***].

(ii)*Expiration of Initial Development Phase.* If the Initial Development Phase expires without all Initial Development Activities being completed, then Lilly shall have the right to cause Nektar, upon Lilly's Notice to Nektar, to transition the performance of the remaining Initial Development Activities being performed by Nektar to Lilly and the Parties shall agree on, and execute, a transition plan to accomplish such transition as expeditiously as possible. For clarity, upon the expiration of the Initial

Development Phase any remaining Initial Development Activities shall cease being characterized as Initial Development Activities.

(c)Results and Records. Nektar will make available and promptly disclose to Lilly all results of the work conducted by Nektar pursuant to the Development Program, including all Initial Development Activities, and this Agreement, and will keep such records (paper and electronic) as described herein. Nektar will maintain records of the results in sufficient detail and in good scientific manner appropriate for patent purposes, and in a manner that properly reflects all work done and results achieved in the performance of the Development Program (including all data, such as minutes from dose escalation meetings with any Regulatory Agency and all final clinical study reports (CSRs), in the form required to be maintained under any applicable governmental regulations).

4.5 **Product Development by Lilly**. Except as otherwise agreed by the Parties in the Product Development Plan or elsewhere in writing, Lilly shall use Commercially Reasonable Efforts to conduct all Product development activities only in the Field from the conclusion of the Initial Development Phase, including all remaining pre-clinical and clinical testing necessary or useful for developing Product and the preparation and submission of the appropriate regulatory documents required for commercialization of Products in the Field and in the Territory; provided that, in the event Nektar still is conducting any trial upon the expiration of the Initial Development Phase, then upon mutual agreement of the Parties, Nektar shall continue to conduct the trial in accordance with the cost sharing structure described in Section 4.11(a); further provided, that, notwithstanding the foregoing or anything in Section 4.11, in any event, Nektar shall be responsible for the costs associated with [***] to the extent required by the FDA to identify [***] to be used in further development of Product.

4.6 **Regulatory Approvals of Product**.

(a)Ownership. During the Initial Development Phase, Nektar shall own all Regulatory Approvals and be responsible for all decisions in connection therewith for Regulatory Approvals of Products in the Field and in the Territory; provided, that Lilly shall cooperate in these efforts as reasonably requested by Nektar. Lilly shall own all Regulatory Approvals after the conclusion of the Initial Development Activities and be responsible for all decisions in connection therewith for Regulatory Approvals of Products in the Field and in the Territory; provided, that Nektar shall cooperate in these efforts as reasonably requested by Lilly. The Safety Regulatory Agreement shall include terms and conditions addressing, among other matters, the transfer of Regulatory Approvals from Nektar to Lilly.

(b)Rights of Reference. Each Party and its Affiliates shall (i) have the right to cross-reference the other Party's or its Affiliate's Regulatory Approvals and related filings anywhere in the world to the extent such Regulatory Approvals and related filings relate to Compounds or Products and are Controlled by such Party or its Affiliates, and to access any data and other know-how therein and use such data and know-how in connection with the performance of its obligations and exercise of its rights under this Agreement, and (ii) in furtherance of the foregoing, provide a signed statement to this effect, if requested by the other Party, in accordance with U.S. 21 C.F.R. §314.50(g)(3) or the equivalent as required in any country or region of the Territory, or otherwise provide appropriate notification of such right of the other Party to the applicable Regulatory Agency.

4.7 **Regulatory Issues and Obligations, Ownership and Survival Rights**. Subject to the Safety Regulatory Agreement to be entered into between the Parties, the Party owning the Regulatory

Approvals shall have the sole right and responsibility for all regulatory interactions, including written communications and meetings with Regulatory Agencies, safety management (including the timely reporting to the appropriate governmental authorities), all Adverse Events and any other information concerning the safety of Products, in each case, in accordance with the applicable laws of the relevant countries; provided that, when Nektar is not the Party owning the Regulatory Approvals, it shall have the express right, to the extent related to a Product or Compound, to: (a) the extent practicable, [***] related to the [***]; (b) [***] in the United States ([***] that are received from the Regulatory Agencies shall be provided [***] to Nektar [***]), with [***] from Nektar to be considered in good faith by Lilly; and (c) [***]. Each Party shall promptly notify the other Party in writing within [***] of unannounced inspections by any Regulatory Agency and within a reasonable time in advance of an announced regulatory inspection with respect to Product development or commercialization. The Parties acknowledge and agree that their respective rights under the Safety Regulatory Agreement to provide comments and to be involved in regulatory matters will not be reciprocal, and that Lilly, as the eventual owner of the Regulatory Approvals required to commercialize Product, will need more extensive rights in such regards than Nektar.

4.8 **Certain Standards Applicable to Nektar Work**. All research done by Nektar for non-regulated work under this Agreement will be conducted in accordance with the Product Development Plan, Eli Lilly and Company Good Research Practices, Eli Lilly and Company Animal Care and Use Requirement for Animal Researchers and Suppliers all applicable data privacy and security laws and regulations and other applicable law. For purposes of this Agreement, "**Eli Lilly and Company Good Research Practices**" means the compiled set of shared research quality standards defining how Lilly's research laboratories conduct good science for non-regulated work as set forth in **Schedule 4.8 Part A**. For purposes of this Agreement, "**Eli Lilly and Company Animal Care and Use Requirement for Animal Researchers and Suppliers**" means the guidelines relating to animal care and use for research done on behalf of Lilly as set forth in **Schedule 4.8 Part B**. If Lilly requests, Nektar will complete a self-assessment examination form based on such quality standards. If it has not done so prior to the Effective Date, a duly authorized representative of Lilly may make an on-site visit to Nektar for the purpose of conducting a quality assessment and/or quality audit for non-regulated work, with Notice of such intended visit to be provided at least [***] in advance, with the date and time of such visit to be mutually agreed by the Parties. Lilly may conduct compliance audits of Nektar during business hours no more than once annually and only upon [***] advance Notice by Lilly and the mutual agreement of the Parties as to the specific date and time for such audit; provided, however, that in the case of audits for cause to ensure compliance with applicable GxPs, Lilly shall request such audit upon at least [***] advance written Notice. Lilly shall not unreasonably interfere with Nektar's business and will cooperate with Nektar as may be reasonably appropriate for the protection of Confidential Information of Nektar.

4.9 **Commercially Reasonable Efforts**. Lilly will use Commercially Reasonable Efforts to develop, receive Regulatory Approval for, market and sell [***] Product in the Field in the [***]**;** provided, that the Parties acknowledge multiple factors (including factors identified in the definition of "Commercially Reasonable Efforts") may reasonably influence the ability and/or desire to initiate this work including: (i) the successful completion of the Initial Development Activities [***], (ii) the availability of [***], (iii) [***], (iv) the success or failure of [***], and (v) other commercially reasonable factors. For the avoidance of doubt, Lilly's obligations under this Section 4.9 on a Product by Product basis, shall cease upon the expiration of [***] with respect to each such Product. Similarly, Nektar will use Commercially Reasonable Efforts to carry out the development obligations that may be assigned to it in accordance with this Agreement (including performance of the Initial Development Activities). Without limiting the foregoing, the Parties acknowledge and agree that following the completion of Initial Development Activities (and subject to the foregoing sub-clauses (i) through (v), inclusive) Lilly will use Commercially Reasonable Efforts to [***], and towards that end the Parties intend as of the Effective

Date that the Product Development Plan will include (at some point during the Term, but not necessarily contemporaneously or at any given time during the Term) activities related to the use of Product for [***] in the Field, which activities will include an appropriate [***]; provided, the Parties further acknowledge and agree that such intent does not guarantee such activities will be initiated.

4.10 **Subcontracts**. Subject to the terms and conditions of this Agreement, the Parties may subcontract to Affiliates and Third Parties portions of the Development Program to be performed, including contract research organizations; provided, however, any such Affiliate or Third Party subcontractor shall be required to enter into appropriate agreements with respect to non-disclosure of Confidential Information and ownership of any intellectual property developed in the course of subcontracted activities, unless such subcontracting would not require the transfer of the other Party's Confidential Information to the Affiliate or Third Party subcontractor and there is no reasonable possibility of the creation of new intellectual property. The Parties will also enter into quality agreements with such Affiliates and Third Parties as reasonably determined to be necessary for the engagement of such subcontractor. Each Party shall remain liable to the other Party for any act or omission of its subcontractor.

4.11 **Development Cost Allocation and Sharing**.

(a)Generally. Development Costs incurred by either Party will be shared as follows:

(i)*During Initial Development Phase*. Development Costs incurred during the Initial Development Phase shall be borne one hundred percent (100%) by Nektar (to be clear, such Nektar Cost Sharing Allocation in respect of the [***] is limited to the [***] to the extent required by [***] to identify [***]), except for Development Costs incurred by Lilly in performing Lilly Elected Activities that are not specific to a Global Phase III Program, which shall be borne seventy five percent (75%) by Lilly and twenty five percent (25%) by Nektar;

(ii)*Following Initial Development Phase*. Development Costs incurred following completion of the Initial Development Phase, but excluding Development Costs for each Product that are specific to a Global Phase III Program for such Product (which costs are subject to Section 4.11(a)(iii) below), shall be borne seventy five percent (75%) by Lilly and twenty five percent (25%) by Nektar; and

(iii)*Global Phase III Programs*. Development Costs for each Product incurred that are specific to a Global Phase III Program for such Product shall be borne one hundred percent (100%) by Lilly; provided, that on a Global Phase III Program-by-Global Phase III Program basis, Nektar shall have the one time option to share in up to twenty-five (25%) percent of the Development Costs associated with such Global Phase III Program in consideration for receiving an increased royalty under Section 6.3 (each, a "**Nektar Increased Commitment Option**"); provided, that each Nektar Increased Commitment Option must be exercised at a whole percent value between one (1) and twenty five (25) (*i.e.*, no fractions of a percent).

As applicable, the foregoing sub-clauses (i), (ii) and (iii) are referred to as the "**Cost Sharing Allocation**".

(b)Nektar Increased Commitment Option. Subject to Section 4.11(a)(iii), for each Global Phase III Program the Nektar Increased Commitment Option may be exercised by providing written notice to Lilly designating Nektar's desired cost share percentage (up to twenty-five (25%) percent) for such Global Phase III Program (such share, the "**Nektar Share**" and, with the balance deemed to be allocated to Lilly, such allocations shall establish the Cost Sharing Allocation with respect to such Global Phase III Program) within [***] after Lilly provides Nektar with Notice of its intention to commence a particular Global Phase III Program; provided, that prior to or as part of such notice Nektar receives (i) then-current proposed development plan for such Global Phase III Program, including the estimated Development Costs related thereto and any Development Costs incurred to date by Lilly for such Global Phase III Program, and (ii) all available proof of concept data, if any (*e.g.*, Phase II Study data in the case the Phase II Study is completed or interim data analysis in the case of an adaptive Phase II/III Study, etc.). For clarity, a Global Phase III Program may be commenced in the midst of a Phase II/III Study, and the Phase III Study component, triggering Nektar's cost sharing (to the extent applicable), shall be deemed to commence upon the [***] in the Phase III Study portion of such Phase II/III Study. Nektar's election to share in twenty-five percent (25%) of all Global Phase III Programs shall be referred to as a "**Full Share**"; Nektar's decision to not exercise any Nektar Increased Commitment Option for such Global Phase III Program shall be referred to as a "**No Share**"; and Nektar's election to exercise a Nektar Increased Commitment Option at an amount greater than zero percent (0%) but less than twenty-five percent (25%) shall be referred to as a "**Partial Share**" (for clarity, the terms Full Share, No Share and Partial Share are relevant to determining the royalty due pursuant to Section 6.3).

(c)Procedures.

(i)*Recording and Reconciliation*. Development Costs shall initially be borne by the Party incurring the cost or expense, subject to reimbursement as provided in this Section 4.11(c) (including Development Costs accrued by Lilly in respect of a Global Phase III Program prior to Nektar's exercise of the Nektar Increased Commitment Option with respect to such Global Phase III Program). Each Party shall calculate and maintain records of Development Costs incurred by it and its Affiliates in accordance with procedures to be established by the JPT, and the procedures for [***] reporting of actual results, [***] review and discussion of potential discrepancies, [***] reconciliation, reasonable cost forecasting, and other finance and accounting matters related to Development Costs will be determined by the JPT (the "**Development Cost Reconciliation Procedures**"). The Development Cost Reconciliation Procedures will provide the ability to comply with financial reporting requirements of each Party under applicable Laws. In any event, within [***] after the end of each [***], each Party shall submit to the JPT a report, in such reasonable detail and format as is established by the JPT, of all Development Costs incurred by such Party during such [***]. Within [***] following the receipt of such report, each Party shall have the right to request reasonable additional information related to the other Party's and its Affiliates' Development Costs during such [***] in order to confirm that such other Party's spending is in conformance with the approved Development Budget. The JPT shall establish (subject to the Parties mutual agreement with respect thereto) reasonable procedures for the Parties to share estimated Development Costs for each [***] prior to the end of such [***], to enable each Party to appropriately accrue its share of Development Costs for financial reporting purposes.

(ii)*Timing*. On a [***] basis, the Party (with its Affiliates) that incurs more than its share of the total actual Development Costs (by reference, on an Indication-by-Indication basis, to the Cost Sharing Allocation applicable to each such Indication) shall be paid by the other Party an amount of cash sufficient to reconcile to its agreed percentage of actual Development Costs in each [***] within [***] of the [***] end; provided that, the Parties shall also undertake an [***] true-up following the [***] of each [***].

(iii)*Variances*. Notwithstanding the foregoing, on a [***] basis, the Parties shall not share any Development Costs in excess of the amounts allocated for such [***] in the Development Budget and each Party will be solely responsible for Development Costs it incurs in excess of the amounts set forth in the Development Budget; provided, however, that Development Costs in excess of the Development Budget shall be included in the calculation of Development Costs to be shared by the Parties if (A) the JSC approves such excess Development Costs (either before or after they are incurred), or (B) to the extent such excess Development Costs do not exceed by more than [***] the total Development Costs allocated to be incurred by such Party and its Affiliates in the applicable [***] in accordance with the applicable Development Budget for such [***].

(iv)*Payment Timing*. The net amount payable to accomplish the sharing of Development Costs as provided under this Agreement shall be paid by Lilly or Nektar, as the case may be, within [***] after receipt of an undisputed invoice. In the event of any dispute regarding the reconciliation payments due from one Party to the other, the Parties shall work together in good faith to resolve such dispute as expeditiously as possible.

(v)*Audit Rights.* Development Costs are subject to audit in accordance with Section 6.8 applied *mutatis mutandis* (subject only to appropriate modifications of the references to the subject matter of such audit and the Party conducting and being audited respectively).

ARTICLE V

MANUFACTURING AND COMMERCIALIZATION

5.1 **Quality Matters and PEG Reagent Supply**.

(a)Quality Generally. Lilly will determine, in accordance with applicable regulatory requirements, all Product quality standards for Product to be used in clinical trials or for commercial supply including: stability; process validation and pre-approval inspection preparation; common specifications; assay methodology and storage conditions. Lilly will also determine in accordance with applicable regulatory requirements such Product quality standards that must be included in any manufacturing requirements for Product.

(b)Quality Agreement, Supply Agreements and Safety Regulatory Agreement. The Parties shall negotiate in good faith and enter into a Quality Agreement, an Early Clinical-Phase Supply Agreement for the PEG Reagent for the Compounds, and a Safety Regulatory Agreement, all within [***] of the Effective Date or as otherwise mutually agreed by the Parties in writing, covering the pre-clinical and clinical trial collaboration activities under this Agreement, including, if applicable, Nektar's or any of its Affiliate's or Third Party contractor's provision of clinical trial materials and subject to Lilly's audit of Nektar and its supply chain. The Quality Agreement and

the Safety Regulatory Agreement shall be in place before Nektar or any of its Affiliates or Third Party contractors conducts activities related to the preparation of such clinical trial materials or begins any clinical trials. The Quality Agreement shall include the responsibility for quality elements, including audits and inspections, sub-contractors and suppliers, change control and corresponding regulatory amendments, out-of-specification results, deviations and investigations, Product recalls, withdrawals, product complaints and a list of key quality contacts. The "[***] **Supply Agreement**" will appoint Nektar to be [***] to Lilly of PEG Reagent for all Compounds for use in Products prepared for pre-clinical and clinical trial up to and including a [***] (or other [***]) collaboration activities, and will be negotiated based on the term sheet attached hereto as **Schedule 5.1(b) Part A**. At Lilly's election and upon written notice of the same by Lilly to Nektar, the Parties shall negotiate in good faith a "[***] **Supply Agreement**", and related quality agreement, [***], for Nektar to be [***] (as designated by Lilly in the above-referred election) commercial supply (*i.e.*, including supply for the [***]) agent of PEG Reagents for all Compounds and Products manufactured by or on behalf of Lilly under this Agreement based on the term sheet attached hereto as **Schedule 5.1(b) Part B**. Notwithstanding the foregoing, neither Party shall be obligated to execute the [***] Supply Agreement or the [***] Supply Agreement and Lilly shall have the right to trigger a manufacturing technology transfer at any time upon notice in accordance with Section 5.2.

5.2 **Manufacturing of the Product**. The Parties agree to use good faith efforts to maximize the value of their development and commercialization activities under this Agreement through implementing an economical supply chain; provided, that, except as otherwise set forth herein, Lilly will have the exclusive right to manufacture, or have manufactured, Compound and/or Product (other than PEG Reagent, which is supplied by Nektar in accordance with Section 5.1(b)) for pre-clinical trial material, clinical trial material and commercial supply, and all cGMP manufactured Product, including Lilly having the authority, in its sole discretion, to make any and all decisions (or take any and all actions) related thereto. In accordance with the Product Development Plan, Nektar may manufacture Compound and/or Product for pre-clinical trial material and clinical trial material, including material for use to perform the Initial Development Activities, under applicable cGMPs. If Nektar uses a contract manufacturer for any of the activities described under this Section 5.2 (or any other supply arrangement as described in Section 5.1), Lilly will have the right to audit and approve (such approval not to be unreasonably withheld or delayed) such contract manufacturer (and Lilly hereby acknowledges that the existing contract manufacturers providing services to Nektar as of the Effective Date will continue doing so until otherwise determined by Lilly). Upon Lilly's request, Nektar will disclose or deliver to Lilly, or a contract manufacturer designated by Lilly, [***] (and will [***] to obtain all [***] that is necessary or useful (as such usefulness is reasonably determined by [***]) to enable Lilly or a contract manufacturer to manufacture Compound and/or Product [***]; provided however, that in the event Nektar is required under this Agreement to make a transfer of any [***], such transfer shall be subject to the terms and conditions of [***]. Without limiting the foregoing, each Party will use reasonable efforts, each pursuant to the Cost Sharing Allocation in Section 5.4, to facilitate the transfer of such [***].

5.3 **Marketing and Sales of Product**. Subject to the scope of the exclusive license granted to Lilly under Section 2.1(a), Lilly will have all rights, responsibility and related expense for commercialization, marketing and sales of Product and will book all sales of Product, and will provide royalty reports to Nektar in accordance with Section 6.6. Until the expiration of the Reasonable Efforts Period (and continuing thereafter provided [***], Lilly shall provide Nektar, at least [***], with a written report summarizing the current status of the estimated timeline and projected efforts for the commercialization, marketing and sales of any Products in the [***]. The "**Reasonable Efforts Period**" shall mean, on a Product by Product basis, that period beginning with First Commercial Sale of each

Product and continuing until Lilly has first achieved [***] in aggregate, annual Net Product Sales for such Product.

5.4 **U.S. Co-Promotion Option**. Lilly hereby grants Nektar an option to provide [***] of the Product commercialization and medical-related FTEs (*i.e.*, sales representatives to detail Product and medical liaisons) in the United States (the "**U.S. Co-Promotion Option**"). Nektar may exercise the U.S. Co-Promotion Option by written notice to Lilly, indicating the percentage of commercialization-related FTEs it would like to provide [***] no later than the date that is [***], as reasonably estimated by Lilly and communicated to Nektar by written notice; provided, that Nektar's right to exercise the U.S. Co-Promotion Option is contingent upon Nektar fulfilling the following prerequisites: [***]. Starting from the date of exercise by Nektar of the U.S. Co-Promotion Option, if ever, and for a period of [***] thereafter (the "**U.S. Co-Promotion Negotiation Period**"), the Parties shall enter into good faith negotiations relating to the terms of a co-promotion agreement ("**U.S. Co-Promotion and Medical Support Agreement**"); provided, that if (i) Nektar does not timely exercise its U.S. Co-Promotion Option, or (ii) the Parties fail to reach agreement on a U.S. Co-Promotion and Medical Support Agreement during the U.S. Co-Promotion Negotiation Period, then, as applicable, the U.S. Co-Promotion Option shall expire and this Section 5.4 shall be of no further force or effect. As will be set forth in more detail in the U.S. Co-Promotion and Medical Support Agreement, Lilly will pay for training materials and will reimburse Nektar's costs incurred in undertaking such Product detailing activities [***] with respect to sales representatives detailing activities or [***] with respect to medical support activities to be conducted by medical liaisons.

ARTICLE VI

FINANCIAL MATTERS

6.1 **Initial Payment**. Within [***] after the Effective Date, as partial consideration for the rights and licenses granted herein, Lilly will pay Nektar a non-refundable and non-creditable amount equal to one hundred fifty million U.S. dollars (US$150,000,000); provided, that nothing in this Section 6.1 is intended to limit either Party's rights to pursue or obtain damages arising from a breach of this Agreement (the "**Initial Payment**").

6.2 **Regulatory Milestone Payments**.

(a)Notice of Regulatory Milestone Achievement. Within [***] following the date of achievement by Lilly (whether by Lilly or any of its Affiliates or any of their respective sublicensees) of any of the Regulatory Milestone events described in the table in this Section 6.2 below (each a "**Regulatory Milestone**"), Lilly shall give Notice to Nektar thereof in writing.

(b)Payment for Regulatory Milestone Achievement. Within [***] following the achievement by Lilly (whether by Lilly or any of its Affiliates or any of their respective sublicensees) of a particular Regulatory Milestone event described in the table below in this Section 6.2(b) with respect to the first Product to achieve such Regulatory Milestone, Lilly shall pay, or cause to be paid, to Nektar the corresponding payment for the applicable Regulatory Milestone achieved as set forth below (each a "**Regulatory Milestone Payment**"), each such payment being non-refundable and non-creditable; provided, that nothing in this Section 6.2, is intended to limit either Party's rights to pursue or obtain damages arising from a breach of this Agreement:

Regulatory Milestones	Payment Amount (USD)
1.First patient treated by or on behalf of Lilly in a Phase III Study for a Product	[***]
2.First Phase III Study "success" for or on behalf of Lilly for a Product (as "success" is defined in Section 6.2(c)(i))	[***]
3.First receipt by or on behalf of Lilly of an approved BLA for a Product from FDA	[***]
4.First receipt by or on behalf of Lilly of an approved BLA for a Product from the European Commission, on recommendation from the EMA	[***]

(c)Regulatory Milestone Clarifications.

(i)"*Success*". For purposes of this Section 6.2, "success" means meeting such Phase III Study's primary end point [***]; provided, that if a Phase III Study turns out to be the primary evidence supporting Lilly's receipt of a BLA from the FDA and from the European Commission, on recommendation from the EMA for a Product, then such Phase III Study shall be deemed a "success".

(ii)[***].

(iii)*Frequency*. Each Regulatory Milestone set forth in this Section 6.2 shall be payable only [***] that achieve such milestone.

6.3 **Product Royalties**. Subject to Section 6.4, during the Royalty Term, Lilly shall pay, or cause to be paid, to Nektar the following tiered royalties on Net Product Sales with respect to each Product in a Calendar Year, each such payment being non-refundable and non-creditable (except with respect to permitted deductions pursuant to Section 6.4(c) and audit credits pursuant to Section 6.8); provided, that nothing in this Section 6.2, is intended to limit either Party's rights to pursue or obtain damages arising from a breach of this Agreement:

Portion of aggregate Net Product Sales for such Product in a Calendar Year (USD)	Royalty rate applicable to such portion if Full Share elected in accordance with Section 4.11(b)	Royalty rate applicable to such portion if No Share elected in accordance with Section 4.11(b)	Royalty rate applicable to such portion if Partial Share elected in accordance with Section 4.11(b)
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]

6.4 **Duration of Royalty Payments and Modifications**.

(a)Royalty Term. As used in this Agreement, "**Royalty Term**" means, on a country-by-country and Product-by-Product basis, the period commencing on the First Commercial Sale of a Product in such country and continuing until the later to occur of: (i) the expiration of the last to expire Valid Claim with respect to such Product in such country; (ii) the date on which Regulatory Exclusivity in such country with respect to such Product expires; and (iii) the [***] of such First Commercial Sale in such country. Following the expiration of a particular Royalty Term with respect to such country and Product to which such Royalty Term related, (1) the license to Lilly set forth in Section 2.1 shall be perpetual, fully paid-up and royalty-free with respect to such Product in such country and (2) sales of a particular Product in such country shall be excluded in determining Net Product Sales of such Product.

(b)Effect of Partial Share Election. In the event Nektar exercises one or more Nektar Increased Commitment Options as a Partial Share, then the applicable royalty rates under Section 6.3 will be increased [***] by applying the mathematical equation set forth on **Schedule 6.4(b)** to the royalty rates that would have been applicable if Nektar had elected No Share (*i.e.*, the third column of the royalty table in Section 6.3) ("**Minimum Royalty Rate Tiers**"); provided however, that Nektar's royalty rates shall [***] the royalty rates that would apply if Nektar had elected Full Share (*i.e.*, the second column of the royalty table in Section 6.3).

(c)Anti-Stacking. In the event the manufacture, use or sale of a particular Product/Compound under this Agreement would infringe the intellectual property rights of any Third Party absent a license thereunder, and Lilly obtains a license under such intellectual property rights, then Lilly may deduct from the royalties due to Nektar pursuant to Section 6.3 [***] of any payments actually paid to any such Third Party as consideration solely for any such license to such intellectual property rights; provided that, in no event may the aggregate of such deductions (applicable to all Third Parties) under this Section 6.4(c) against the royalties payable in a given Calendar Year exceed [***] of royalties otherwise due to Nektar.

(d)Biosimilar Product Competition.

(i) *Reduction*. Each Party shall notify the other as promptly as reasonably practicable in the event that it becomes aware of a marketing authorization being issued in a [***] to sell a Biosimilar Product with a respect to a given Product. On a country-by-country and Product-by Product basis, if during a [***] for which royalties are being calculated hereunder for a particular Product, one or more products being sold in a particular country are Biosimilar Products with respect to such Product, then the royalty rate otherwise applicable to the Net Product Sales of such Product in such country during such [***] and thereafter (for as long as such Biosimilar Products are sold in such country) shall be reduced as follows:

(A)[***], in the event that in any [***] following the first commercial sale of any Biosimilar Product in such country, [***]; and

(B)[***], in the event that in any [***] following the first commercial sale of any Biosimilar Product in such country, [***].

(ii) *Biosimilar Product*. For purposes of this Agreement, "**Biosimilar Product**" means, with respect to a particular Product in a particular country, a

pharmaceutical product that (a) is approved for use in such country pursuant to a regulatory approval process governing approval of generic, interchangeable or biosimilar biologics of such Product [***] and (b) is sold in the same country as such Product by any Third Party that is not a sublicensee of Lilly or its Affiliates and did not purchase such pharmaceutical product in a chain of distribution that included any of Lilly, its Affiliates or their sublicensees.

(iii) *Retroactive Effect*. For purposes of clarity, in any [***] during which there are sales of a Biosimilar Product and Net Product Sales have decreased by the percentage indicated in the applicable portion of subclause (i), the applicable royalty reduction shall be effective beginning [***] in which such percentage sales decrease first occurs. An [***] true-up will occur following the completion of any such [***] to ensure any balances owed/due have been settled, and during the course of any such [***], in connection with the foregoing, the Parties will establish reasonable procedures to share estimated royalty payments to enable each Party to make appropriate and timely accounting entries for financial reporting purpose.

(e) Step-Down for [***]. On a Product-by-Product and country-by-country basis, the royalties payable by Lilly with respect to Net Product Sales of such Product in such country shall be reduced by [***] if after [***].

6.5 **Payments under Sublicense**. If Lilly sublicenses its rights to a Product to a sublicensee, Lilly will pay Nektar, or cause to be paid, each and all payments as they become due and payable to Nektar under this Agreement for each sublicensed Product.

6.6 **Royalty Reports**. For so long as a Royalty Term is in effect, royalty reports for each [***] are due [***]. For each [***], the royalty report will set out Net Product Sales for each Product and the royalty amounts due hereunder with respect to each Product for such [***]. Interim royalty reports shall also be due for each of the [***] after the end of such [***]. For each such [***], the royalty report will set out Net Product Sales for each Product for such [***] and the royalty amounts due hereunder with respect thereto for each Product.

6.7 **Royalty Payment Terms**. Royalties provided for under this Agreement will be due and payable with respect to each Product on the date the royalty report is due for the applicable [***].

6.8 **Audits**. Within the Term, Nektar shall [***] have the right to have any nationally recognized, independent certified public accounting firm (subject to Lilly's approval not to be unreasonably withheld or delayed) inspect Lilly's records for [***] for the purpose of determining the accuracy of any royalties due under this Agreement. No period will be audited more than once. Nektar shall submit an audit plan, including audit scope, to Lilly for Lilly's approval, which shall not be unreasonably withheld or delayed, prior to audit implementation. The auditor shall keep confidential any information obtained during such inspection and shall report to Nektar and Lilly only the amounts of Net Product Sales and royalties due and payable for such period audited. If determined that additional royalties are owed, or that royalties were overpaid, during such period, Lilly will pay Nektar (with interest subject to Section 6.11) the additional royalties, or Nektar will credit (with interest subject to Section 6.11) Lilly the overpaid royalties within [***] of the date the auditor's written report is received by the paying Party (provided that if any unpaid balances are remaining owed to Lilly at the end of the Term then Nektar shall refund the payment to Lilly within [***] thereafter). The fees charged by the auditor will be paid by Nektar unless any additional royalties owed [***], in which case Lilly will pay the reasonable fees of the auditor. Lilly (including its Affiliates) and its sublicensees shall keep complete and

accurate books and records that may be necessary to ascertain properly and to verify the payments owed hereunder.

6.9 **Withholding of Taxes**. Lilly agrees that the Initial Payment and all Regulatory Milestone Payments set forth in Section 6.1 and Section 6.2, and all other payments to Nektar under this Agreement, shall be paid from a United States domiciled entity for tax purposes; provided, however, that if any such payments subsequent to the Initial Payment are to be made from an entity domiciled outside of the United States, Lilly must provide Nektar with Notice at least [***] in advance of such payment to enable Nektar to meet requirements under applicable law (*e.g.*, pursuant to the requirements of IRS Form 8802). Any withholding of taxes levied by tax authorities on the payments by Lilly to Nektar hereunder that are required by applicable law to be deducted from such payments to Nektar will be deducted by Lilly from the sums otherwise payable by it hereunder for payment to the proper tax authorities on behalf of Nektar and Lilly will pay the taxes to the proper taxing authority and send evidence of the obligation together with proof of tax payment to Nektar on a timely basis following that tax payment. Such taxes will be borne by Nektar. Lilly agrees to reasonably cooperate with Nektar in the event Nektar claims exemption from such withholding or seeks refunds or deductions under any double taxation or other treaty or agreement from time to time in force, such cooperation to include providing receipts of payment of such withheld tax or other documents reasonably available to Lilly. The Parties shall discuss applicable mechanisms (including reasonable cooperation in securing applicable treaty benefits) for minimizing such taxes to the extent possible in compliance with applicable law. In addition, the Parties shall cooperate in accordance with applicable law to minimize indirect taxes (such as value added tax, sales tax, consumption tax and other similar taxes) in connection with this Agreement.

6.10 **Currency of Payments; Exchange Controls**. Except as otherwise provided in this Agreement, all amounts owed by a Party under this Agreement shall be paid by such Party via wire transfer of immediately available funds in U.S. dollars to the account designated in writing to such Party by the other Party provided that such payment shall only be made to a jurisdiction of the payee-Party or a jurisdiction where the payee-Party has a significant business presence. If at any time legal restrictions prevent the prompt remittance of part or all royalties with respect to any country where Product is sold, payment will be made through such lawful means or methods as Lilly may determine.

6.11 **Interest on Late Payments**. If either Party fails to pay any payment due under this Agreement within [***] after the date such payment is due, as provided in this Agreement, such late payment shall bear interest, to the extent permitted by applicable law, [***], as calculated on the number of days the relevant payment is delinquent from and including the date payment is due through and including the date upon which the owed Party has collected immediately available funds in its own account, or such rate as is legally permissible, whichever is less. Interest will be paid based on [***] rate.

ARTICLE VII

INTELLECTUAL PROPERTY

7.1 **Disclosure of Inventions**. During the Term of this Agreement, Nektar and Lilly will each promptly disclose to the other any Inventions necessary or useful (as such usefulness is reasonably determined by the disclosing Party) for the development, manufacture, use or sale of Product/Compound in the Field.

7.2 **Ownership by Nektar**. As between the Parties, all right, title and interest in and to all Nektar Technology, Nektar Inventions, Nektar Materials and Nektar Patent Rights shall be owned by Nektar.

7.3 **Ownership by Lilly**. As between the Parties, all right, title and interest in and to all Lilly Technology, Lilly Inventions, Lilly Materials and Lilly Patent Rights shall be owned by Lilly.

7.4 **Joint Ownership**. Subject to Section 7.5, all right, title and interest in all Joint Inventions and Joint Patent Rights shall be owned jointly by Lilly and Nektar.

7.5 **Cooperation**. Each Party represents and agrees that all its, or as applicable, its Affiliates', employee(s), contractor(s) and agent(s) will be obligated under a binding written agreement or otherwise to assign to such Party all Inventions made or conceived by such employee(s), contractor(s) or other agent(s) in connection with this Agreement. Each Party agrees to make, and hereby makes, the assignments necessary to accomplish the ownership of Patent Rights as set forth in this Article VII, and each Party agrees that, upon request and without further compensation (except for reimbursement of related and reasonable out-of-pocket expenses (except outside counsel fees)), such Party shall execute such further documents as may be reasonably necessary or appropriate, and provide reasonable assistance and cooperation, including the giving of testimony, as may be necessary or desirable for obtaining, sustaining, reissuing or enforcing the Parties' rights in the Patent Rights, including as set forth in this Article VII.

7.6 **Nektar Exclusive Patents And Nektar Patent Rights**.

(a)Nektar Exclusive Patents. Lilly will have sole responsibility for and control over the filing, prosecution, maintenance, defense and enforcement of any and all Nektar Exclusive Patents. [***].

(b)Nektar Patent Rights that are not Nektar Exclusive Patents. Nektar will have sole responsibility for and control over the filing, prosecution, maintenance, defense and enforcement of any and all Nektar Patent Rights that are not Nektar Exclusive Patents, subject to Section 7.9.

(c)Costs and Cooperation. Lilly shall bear [***] the expenses incurred in connection with the preparation, filing, prosecution and maintenance of Nektar Exclusive Patents, and Nektar will bear [***] the expenses incurred in connection with the preparation, filing, prosecution and maintenance of Nektar Patent Rights that are not Nektar Exclusive Patents. Through the JPC, Nektar will keep Lilly reasonably informed regarding the status and prosecution of all Nektar Patent Rights that are not Nektar Exclusive Patents, and Nektar agrees to give due consideration to all directions, comments, instructions and guidance provided by Lilly in respect of such Patents. Through the JPC, Lilly will keep Nektar reasonably informed regarding the status and prosecution of all Nektar Exclusive Patents, and Lilly agrees to give due consideration to all directions, comments, instructions and guidance provided by Nektar in respect of such Patents. The Parties each agree that with respect to their managing the prosecution and maintenance of the Nektar Exclusive Patents and Nektar Patent Rights, each Party [***].

7.7 **Lilly Patent Rights**. Lilly will have sole responsibility for and control over the filing, prosecution, maintenance and enforcement of the Lilly Patent Rights, [***].

7.8 **Joint Patent Rights**. Lilly will have the first right to assume responsibility for the preparation, filing, prosecution and maintenance of any Joint Patent Rights, in each country or region of the Territory where the Parties elect to pursue or maintain Patent registration. [***] in connection with such preparation, filing, prosecution and maintenance of Joint Patent Rights. [***]. Each Party will keep the other reasonably informed of, and consult with the other Party with respect to the status and prosecution of all Patents included in such Joint Patent Rights, including promptly providing the other

Party with copies of all material correspondence with the applicable Patent regulatory authority and the opportunity to review and comment on any papers, responses or other filings prepared for submissions to said authorities in advance of their filing. If either Party elects not to assume such responsibility, the other Party will have the right but not the obligation to do so, and will keep the other Party reasonably informed of, and consult with the other Party with respect to, the status and prosecution of all Patents included in such Joint Patent Rights.

7.9 [***].

7.10 **Patent Term Extension**. Nektar will reasonably cooperate with Lilly, upon Lilly's reasonable request and at Lilly's [***], in obtaining Patent term extension or supplemental protection certificates and the like with respect to the Joint Patent Rights and Nektar Patent Rights that cover a Product, in each country and region where it is practicable to do so. Lilly will make the election in accordance with the preceding sentence and Nektar agrees to abide by such election. [***].

7.11 **Data and Intellectual Property**. Unless otherwise specified in this Agreement, Technology and Patent Rights Controlled by either Party as of the Effective Date or during the Term (including ownership as set forth in this Agreement) will remain, as between the Parties, the sole property of the Controlling Party, which that Party may exploit in any manner it chooses at its sole discretion, except to the extent otherwise provided in this Agreement.

ARTICLE VIII

INFRINGEMENT, ENFORCEMENT & DEFENSE

8.1 **Infringement of Third Party Patent Claims**.

(a)[***]. In the event the use or sale of a Product by either Party or any of its Affiliates or sublicensees becomes the subject of an actual claim of infringement of a [***], and [***], the Parties shall [***].

(b)Defense. Subject to Section 8.6, unless the Parties otherwise agree, [***]. Each Party shall reasonably cooperate with the Party conducting the defense of the claim. Each Party shall keep the other Party hereto reasonably informed of all material developments in connection with any such claim, suit or proceeding, and the Parties shall reasonably cooperate in conducting the defense of any such claim. [***]. Neither Party shall enter into any settlement that affects any the other Party's rights or interests without such other Party's prior written consent, not to be unreasonably withheld, conditioned or delayed.

8.2 **Enforcement Action Relating to Nektar Exclusive Patents**. Nektar and Lilly will each promptly notify the other in writing of any alleged or threatened infringement of any of the Nektar Exclusive Patents (an "**Action**") of which they become aware. [***]. In any Action, any damages or other recovery, including compensatory and other non-compensatory damages or recovery actually received from a Third Party, shall first be used to reimburse the Parties for their respective costs and expenses incurred in connection with such Action, with the remainder to be [***].

8.3 **Enforcement Action of Nektar Patent Rights Other than Nektar Exclusive Patents**. Nektar and Lilly will each promptly notify the other in writing of any alleged or threatened infringement of any of the Nektar Patent Rights (other than Nektar Exclusive Patents) or misappropriation of Nektar Technology. [***].

8.4 **Enforcement of Joint Patent Rights**. Nektar and Lilly will each promptly notify the other in writing of any alleged or threatened infringement of the Joint Patent Rights of which they become aware. [***]. In the event a Party brings an infringement action against a Third Party as described herein, the other Party will reasonably cooperate, including, [***].

8.5 **Validity Defense**.

[***].

8.6 [***]

ARTICLE IX

CONFIDENTIALITY

9.1 **Nondisclosure; Use; Exceptions**. Each Party agrees that, during the Term and for a period of [***] from the expiration or termination of this Agreement, neither Nektar nor Lilly shall publish or disclose to any Third Party, including its independent contractors, or use for any purpose besides exercising their respective rights and performing their respective obligations under this Agreement, any or all Confidential Information of the other Party, except as expressly permitted by this Article IX.

9.2 **Authorized Disclosures**.

(a)Compliance. Either Party may disclose Confidential Information of the other Party if such Party is required to make such disclosure by applicable law, regulation or legal process, including by the rules or regulations of any tax authority, the United States Securities and Exchange Commission, or any other similar regulatory agencies in a country other than the United States or of any stock exchange or other securities trading institution, in which event such Party shall provide prior Notice of such intended disclosure to such other Party if reasonably practicable under the circumstances and shall disclose only such Confidential Information of such other Party as is required to be disclosed.

(b)Approvals. The Parties expressly agree that Lilly may submit Confidential Information of Nektar to any Regulatory Agency solely to the extent necessary for obtaining Product marketing approvals in the Field.

(c)Potential Partners. Either Party may disclose the material terms of this Agreement (but not financial terms) upon the written consent of the other Party, such consent not to be unreasonably withheld or delayed (which consent may be to external counsel under conditions reasonably agreed to by the Parties to enable such counsel to determine whether there are any potential conflicts with actual and potential licensees, collaborators or other potential partners), with respect to such Party exercising its rights or obligations under this Agreement or otherwise in the ordinary course of exercising its rights with respect to intellectual property that such Party is licensing hereunder; provided each recipient agrees to be bound by similar terms of confidentiality and non-use at least equivalent in scope to and no less restrictive than those set forth in this Article IX prior to any disclosure (provided that such terms shall not include the provisions of Section 9.4).

(d)Certain Third Parties. Either Party may disclose the results of the Development Program and/or the material terms of this Agreement to non-strategic (financial) investors, lenders, any bona fide potential or actual investor, investment banker, acquirer, merger partner, or other potential or actual financial partner, provided each agrees to be bound by similar terms of confidentiality and non-use at least equivalent in scope to and no less restrictive than those set forth in this Article IX prior to any disclosure (provided that such terms shall not include the provisions of Section 9.4).

(e)Miscellaneous. Each Party may disclose or use the other Party's Confidential Information to the extent such disclosure is necessary or useful in the following instances:

(i)filing or prosecuting Patent Rights in accordance with Article VII;

(ii)prosecuting or defending litigation, except that a Party may not use or disclose the other Party's Confidential Information to challenge the validity or enforceability of such other Party's Patent Rights;

(iii)complying with applicable governmental regulations including tax laws (including to Third Party auditors);

(iv)conducting pre-clinical or clinical trials of Products in accordance with the terms and conditions of this Agreement;

(v)disclosure to Affiliates, sublicensees, employees, consultants, contractors or agents in connection with the performance of this Agreement and who are bound by similar terms of confidentiality and non-use at least equivalent in scope to and no less restrictive than those set forth in this Article IX prior to any disclosure or who are bound by professional obligations of confidentiality (provided that such terms shall not include the provisions of Section 9.4); and

(vi)in the case of Lilly, to fully exploit the license granted to it under Section 2.1.

9.3 **Response Plan and Notification of Non-Authorized Disclosures**. Each Party shall have a response plan in place for any disclosure of Confidential Information that is not authorized or otherwise permitted under this Agreement. Such plan shall include considerations of, among other things, notification, remediation and retrieval. In the event that a Party becomes aware of an unauthorized disclosure of the other Party's Confidential Information, then such Party shall notify the other Party promptly in writing.

9.4 **Know-How License Grant**. Except to the extent Nektar has granted exclusive rights to Lilly under Section 2.1, each Party grants the other Party a non-exclusive license to use, outside the scope of this collaboration and for any purpose, any know-how or Confidential Information shared in the performance of this Agreement by such Party solely to the extent such know-how or Confidential Information has been retained (without intentional memorization) in intangible form in the minds of such Party's employees (or its Affiliates' employees) who have had access to such know-how or Confidential Information pursuant to the terms of this Agreement and without reference to any tangible copies of such know-how or Confidential Information; provided, that such Party's use of such know-how or Confidential Information is on an "as is, where is" basis, with all faults and all representations and warranties disclaimed and at such Party's sole risk. Notwithstanding anything to the contrary in this Agreement,

nothing in this Section 9.4 shall, or shall be interpreted to, grant any license to or under any Patent Rights. Furthermore, notwithstanding anything to the contrary in this Agreement, except to the extent Nektar has granted exclusive rights to Lilly under Section 2.1, neither Party is forfeiting any rights that each may have to perform research activities in compliance with 35 U.S.C. § 271(e)(1) or any experimental or research use exemption that may apply in any country.

ARTICLE X

INDEMNIFICATION AND REPRESENTATIONS AND WARRANTIES

10.1 **Indemnification by Lilly**. Lilly will defend, indemnify and hold Nektar and its directors, officers, controlling Persons, employees, agents and contractors (the "**Nektar Indemnified Parties**") harmless from and against any and all losses, claims, suits, proceedings, expenses, recoveries and damages, including reasonable legal expenses and costs including attorneys' fees, resulting or arising out of any claim by any Third Party to the extent resulting or arising from (a) the gross negligence or willful misconduct of Lilly, any of its Affiliates, or any of their respective directors, officers, employees, agents or contractors; (b) the development, commercialization, manufacture, use or sale of the Products, if any, by or on behalf of Lilly (other than by or on behalf of Nektar), any of its Affiliates or any of their respective sublicensees; or (c) any breach of this Agreement by Lilly, any of its Affiliates or any of their sublicensees; except, in each case, to the extent caused by the negligence or willful misconduct of any of the Nektar Indemnified Parties. Nektar will give Lilly prompt Notice of any such claim or lawsuit and, without limiting the foregoing indemnity, Lilly will have the right to compromise, settle or defend any such claim or lawsuit (to the extent subject to indemnity by Lilly as set forth herein); provided that (i) no offer of settlement, settlement or compromise by Lilly shall be binding on Nektar without its prior written consent, not to be unreasonably withheld, conditioned or delayed, unless such settlement fully releases Nektar without any liability, loss, cost or obligation incurred by Nektar and in no event shall any settlement or compromise admit or concede that any aspect of any of the Nektar Patent Rights is invalid or unenforceable or adversely affect the scope of any of the Nektar Patent Rights and (ii) Lilly shall not have authority to admit any wrongdoing or misconduct on the part of Nektar or any of its Affiliates except with Nektar's prior written consent.

10.2 **Indemnification by Nektar**. Nektar will defend, indemnify and hold Lilly and its directors, officers, employees, agents and contractors (the "**Lilly Indemnified Parties**") harmless from and against any and all losses, claims, suits, proceedings, expenses, recoveries and damages, including reasonable legal expenses and costs including attorneys' fees, resulting or arising out of any claim by any Third Party to the extent resulting or arising from (a) the gross negligence or willful misconduct of Nektar, any of its Affiliates, or any of their respective directors, officers, employees, agents or contractors; (b) the development, manufacture, use or sale of the Products, if any, by or on behalf of Nektar (other than by or on behalf of Lilly); or (c) any breach of this Agreement by Nektar, or any of its Affiliates; except, in each case, to the extent caused by the negligence or willful misconduct of any of the Lilly Indemnified Parties. Lilly will give Nektar prompt Notice of any such claim or lawsuit and, without limiting the foregoing indemnity, Nektar will have the right to compromise, settle or defend any such claim or lawsuit (to the extent subject to indemnity by Nektar as set forth herein); provided that (i) no offer of settlement, settlement or compromise by Nektar shall be binding on Lilly without its prior written consent, not to be unreasonably withheld, conditioned or delayed, unless such settlement fully releases Lilly without any liability, loss, cost or obligation incurred by Lilly and in no event shall any settlement or compromise admit or concede that any aspect of any of the Lilly Patent Rights is invalid or unenforceable or adversely affect the scope of any of the Lilly Patent Rights and (ii) Nektar shall not have authority to admit any wrongdoing or misconduct on the part of Lilly or any of its Affiliate except with Lilly's prior written consent.

10.3 **Nektar Representations and Warranties to Lilly**. Nektar represents and warrants that as of the Effective Date:

(a)it is the sole and exclusive owner of the Nektar Patent Rights licensed to Lilly hereunder;

(b)the intellectual property licensed to Lilly hereunder represents all of the intellectual property rights that are being used by Nektar or its Affiliates for the research, development, manufacture and commercialization of Products/Compounds in the Field in the Territory;

(c)Nektar has the full right, power and authority to grant the rights and licenses it purports to grant hereunder, and neither Nektar nor any of its Affiliates has granted any Third Party any rights or licenses that would interfere, be inconsistent with or otherwise violate Lilly's rights and licenses hereunder or otherwise cause Nektar to be in breach of any Third Party agreements;

(d)(i) None of the Nektar Intellectual Property is subject to any existing royalty or other payment obligations to any Third Party under any agreement or understanding entered into by Nektar or its Affiliates, and (ii) Nektar has no knowledge of any obligation to pay any royalties or other amounts to any Third Party, in each instance in respect of clauses (i) and (ii) in this Section 10.3(d), by reason of Lilly's use thereof as contemplated by this Agreement (other than any fees or royalties that may be owed upon termination or transition of manufacturing with or from existing Third Party manufacturers as set forth in **Schedule 10.3(d)**);

(e)to Nektar's knowledge, use of the Nektar Intellectual Property by Lilly in accordance with the terms of this Agreement as currently contemplated, including Lilly's further development, manufacturing and/or commercialization of Product in the Field will not infringe on the rights of any Third Party, including any Third Party intellectual property rights;

(f)as of the Effective Date, it has received no written notice of or any written demand relating to any threatened or pending litigation which would reasonably lead it to believe that Lilly's exercise of any rights granted by Nektar under this Agreement in respect of the Nektar Intellectual Property will infringe any Patent Rights or misappropriation of other intellectual property rights of any Third Party;

(g)Nektar has not given any written notice to any Third Party asserting infringement by such Third Party of any of the (i) Nektar Patent Rights, or (ii) Nektar Technology in the Field, and, to Nektar's knowledge, there is no unauthorized use, infringement or misappropriation of the (A) Nektar Patent Rights or (B) Nektar Technology in the Field;

(h)Nektar has made available to Lilly all toxicology studies, clinical data, manufacturing process data, material filings and material correspondence with Regulatory Agencies, and all other material information in its possession or control relating to the Product and Compounds, and, to the knowledge of Nektar, all such information is complete and accurate in all material respects;

(i)no claims for liability for death or injury to any Person as a result of any defect in the Compounds or Product, or any statutory liability or any liability assessed with respect to any

failure to warn arising out of the Compounds or Product have been asserted against Nektar or its Affiliates;

(j)all development previously conducted by Nektar or its Affiliates with respect to the Compounds (including all pre-clinical studies and clinical trials), testing, manufacture, labeling, storage, and distribution of the Compounds have been conducted by Nektar and its Affiliates and, to Nektar's knowledge, its Third Party contractors, in compliance in all material respects with all applicable laws and requirements of Regulatory Agencies, including all applicable laws pertaining to investigational use, record keeping, security and filing of reports, and in compliance with cGLP, cGCP and/or cGMP (as applicable);

(k)Nektar has complied with all applicable laws, directives and regulations related to data protection and data privacy and has provided all legally required privacy notices to, and obtained appropriate consents, including research informed consents, from data subjects ("**Notices and Consents**"), and the Notices and Consents permit the use of the data as currently and previously used and processed by Nektar and will permit the sale, licensing and transfer of all such personal data of data subjects to Lilly as contemplated in this Agreement;

(l)Nektar has used Commercially Reasonable Efforts to protect the confidentiality of those parts of the Nektar Technology that constitute confidential or proprietary information of Nektar; and

(m)there are no liens, charges or encumbrances on the Nektar Intellectual Property that would prevent or limit Lilly's exercise of its rights under the exclusive license granted to Lilly under Section 2.1(a).

10.4 **Representations and Warranties of the Parties to Each Other**. Nektar and Lilly each represent, warrant and covenant (as applicable) with respect to itself only that:

(a)the execution, delivery and performance of this Agreement have been duly authorized by all necessary action on the part of such Party, its officers and directors, and does not conflict with, violate, or breach any agreement to which such Party is a party, or such Party's corporate charter, bylaws or similar organizational documents;

(b)this Agreement constitutes a legal, valid and binding obligation of such Party that is enforceable against it in accordance with its terms, except as such enforceability may be limited by general principles of equity or to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies;

(c)it is a company or corporation duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is incorporated;

(d)it has not, and will not, after the Effective Date and during the Term, grant any right to any Third Party that would conflict with the rights granted to the other Party hereunder (but only while such rights remain in effect in accordance with the terms of this Agreement); and

(e)it has not, and will not, after the Effective Date and during the Term, use any employee, agent, contractor or consultant in connection with the development or

commercialization of Products who has been debarred by any governmental authority, or, to such Party's knowledge, is the subject of debarment proceedings by a governmental authority.

10.5 **DISCLAIMER**. The representations and warranties of the Parties set forth in this Agreement are the sole and exclusive representations and warranties of the Parties relating to or made in connection with this Agreement, and NEITHER PARTY MAKES OR HAS MADE ANY REPRESENTATIONS OR WARRANTIES NOT EXPRESSLY SET FORTH IN THIS AGREEMENT. NEKTAR AND LILLY ARE NOT RELYING ON, AND EACH HEREBY DISCLAIMS, ALL REPRESENTATIONS AND WARRANTIES NOT EXPRESSLY CONTAINED HEREIN (WHETHER EXPRESS OR IMPLIED), INCLUDING WITH RESPECT TO EACH OF THEIR RESEARCH, DEVELOPMENT AND COMMERCIALIZATION EFFORTS HEREUNDER, WHETHER THE PRODUCTS CAN BE SUCCESSFULLY DEVELOPED OR MARKETED, THE ACCURACY, PERFORMANCE, UTILITY, RELIABILITY, TECHNOLOGICAL OR COMMERCIAL VALUE, COMPREHENSIVENESS, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WHATSOEVER OF THE PRODUCTS, OR THE NON-INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

10.6 **LIMITATIONS**. IN NO EVENT SHALL EITHER NEKTAR OR LILLY BE LIABLE FOR REMOTE, SPECULATIVE, PUNITIVE OR EXEMPLARY, OR OTHER SPECIAL DAMAGES, INCLUDING LOST PROFITS, ARISING OUT OF THIS AGREEMENT BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY (OTHER THAN (A) PUNITIVE OR EXEMPLARY DAMAGES REQUIRED TO BE PAID TO (I) IN CONNECTION WITH A THIRD PARTY CLAIM FOR WHICH THE INDEMNIFIED PARTY IS ENTITLED TO INDEMNIFICATION HEREUNDER OR (II) A PARTY PURSUANT TO A NON-APPEALABLE ORDER OF A COURT OF COMPETENT JURISDICTION IN CONNECTION WITH A VIOLATION OF PATENT OR OTHER INTELLECTUAL PROPERTY RIGHTS, (B) SUCH DAMAGES ARISING OUT OF ANY BREACH OF ARTICLE IX OF THIS AGREEMENT BY A PARTY, ITS AFFILIATES OR SUBLICENSEES OR (C) SUCH DAMAGES ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE LIABLE PARTY). Notwithstanding the foregoing, it is expressly understood and agreed that nothing contained in this Section 10.6 shall limit, alter, or waive in any manner or respect any defenses available to any Person or any burdens of proof or legal standards required to be met by any Person under applicable law.

ARTICLE XI

TERM AND TERMINATION

11.1 **Term**. The term of this Agreement will commence on the Effective Date and end on the expiration of all applicable royalty payment obligations to Nektar under this Agreement, unless terminated earlier according to the terms and conditions of this Agreement (the "**Term**").

11.2 **Termination At Will by Lilly**. Lilly may terminate this Agreement in its entirety or with respect to one or more particular Products or Compounds or with respect to one or more countries at any time without cause upon [***] written Notice to Nektar. During such [***] period, the Parties shall cooperate in the wind down of applicable activities under this Agreement in a commercially reasonable manner. Notwithstanding the foregoing, Lilly's termination right under this Section 11.2 shall be tolled for a period of [***] from the date of the [***] anywhere in [***]; provided, that, subject to Section 11.4(b)(ii), Lilly is permitted to provide notice of termination during such [***] that will become effective upon the expiration of such [***] period.

11.3 **Termination for Cause By Either Party**.

(a)Material Breach. Subject to the final sentence of this Section 11.3(a), this Agreement (either in its entirety or only in part) may be terminated by a Party at any time during the Term upon written Notice to the other Party if such other Party is in material breach of this Agreement and has not cured such breach within [***] of receipt of such notice. Any such termination shall become effective at the end of such [***] period unless the breaching Party has cured such breach prior to the end of such period. Any right to terminate under this Section 11.3(a) shall be stayed and the cure period tolled in the event that, during any cure period, the Party alleged to have been in material breach shall have in good faith initiated dispute resolution in accordance with Article XIII with respect to the alleged breach, which stay and tolling shall continue until such dispute has been resolved in accordance with Article XIII. For clarity, such material breach of this Agreement may apply to (i) this Agreement in its entirety, in which case Section 11.4(b) or 11.4(c) (as applicable) shall apply to the entire Agreement, or (ii) a specific Product or Products, in which case Section 11.4(b) or 11.4(c) (as applicable) shall apply only to such affected Product or Products, or (iii) a specific country or countries, in which case Section 11.4(b) or 11.4(c) (as applicable) shall apply only to such affected countries. Notwithstanding the foregoing, the Parties acknowledge and agree that [***]; provided, that, [***] shall not constitute a material breach of this Agreement; provided, further, that, [***].

(b)Bankruptcy. Either Party will have the right to terminate this Agreement in the event of a general assignment for the benefit of creditors of the other Party, or if proceedings of a case are commenced in any court of competent jurisdiction by or against such other Party seeking (i) such other Party's reorganization, liquidation, dissolution, arrangement or winding up, or the composition or readjustment of its debts, (ii) the appointment of a receiver or trustee for or over such other Party's property, or (iii) similar relief in respect of such other Party under any law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debt and, in each case of clauses (i) through (iii) such proceedings shall continue undismissed, or an order with respect to the foregoing shall be entered and continue unabated, for a period of more than [***].

(c)Abandonment. Without limiting Lilly's obligations under Section 4.9, or any other rights or remedies of Nektar under this Agreement, Nektar shall have the right to terminate this Agreement at any time prior to Lilly's (or its Affiliate's or its or their sublicensee's) receipt of Regulatory Approval for a Product upon delivery of at least [***] prior written notice to Lilly in the event that Lilly (or its Affiliate or its or their sublicensee) has not conducted any development activities with respect to a Compound or Product for a period of [***]; provided, that such [***] period shall be tolled for a period equal to the time that Lilly (or its Affiliate or its or their sublicensee) is prohibited from undertaking development activities for reasons outside of the reasonable control of Lilly (or its Affiliate or its or their sublicensee), including a clinical hold mandated by a Regulatory Agency.

(d)Not Sole Remedy. If either Party has the right to terminate this Agreement under this Article XI, it may at its sole option, elect either to (i) terminate this Agreement and pursue any legal or equitable remedy available to it or (ii) maintain the Agreement in effect and pursue any legal or equitable remedy available to it.

11.4 **Effect of Expiration or Termination**.

(a)Expiration. Upon expiration (but not earlier termination) of this Agreement, the license and rights under Nektar Intellectual Property granted by Nektar to Lilly pursuant to this Agreement shall survive on a royalty-free, fully-paid, irrevocable and perpetual basis.

(b)Termination by Nektar for Cause or by Lilly At Will. Upon any termination by Nektar in accordance with Section 11.3, or by Lilly in accordance with Sections 11.2 or 11.3(b), the following shall apply (for avoidance of any doubt in the case of a termination by Lilly (under Sections 11.2 or 11.3(b)) or Nektar (under Section 11.3) with respect to one or more particular Products, Compounds, or country(ies) such provisions shall only apply to such particular Products, Compounds, and/or country(ies) being terminated and, therefore, shall have no application or effect on any of the other Products, Compounds, and/or country(ies) not being terminated):

(i)all licenses and rights granted by Nektar to Lilly pursuant to this Agreement shall automatically terminate and revert to Nektar, Nektar shall have the right to step in to and otherwise assume any of the rights and prerogatives of Lilly as identified in Article IV, Article V, and Article VI to pursue patent protection, enforce patent rights, or otherwise, and all other rights and obligations of the Parties under this Agreement shall terminate; in each case, except as expressly provided below in this Article XI or elsewhere in this Agreement.

(ii)Lilly shall reasonably cooperate with Nektar to facilitate a smooth, orderly and [***] transition (including during any notice period hereunder) of any ongoing Product development activities being conducted by or on behalf of Lilly or its Affiliates to Nektar or its designee(s), with due regard for patient safety and in compliance with all applicable laws and GxP, and shall use Commercially Reasonable Efforts, [***], with respect to any such ongoing Product development activities to [***] transfer or assign (or sublicense or otherwise convey to Nektar those licenses or agreements that cannot be assigned) to Nektar or a Nektar designee, all Regulatory Approvals (including promptly submitting to Regulatory Agencies necessary documents or notices necessary to effect such transfers or assignments), Third Party licenses, supply chain agreements and any other materials or information necessary or useful (as such usefulness is reasonably determined by Nektar) for the continued development, manufacture and commercialization of such Product, in each case only to the extent that such agreements, materials, approvals, etc. relate solely and exclusively to Compound or Product. To the extent that Lilly can convey such rights, Nektar shall have the right to assign or sublicense, as applicable, to Nektar development or commercialization partners with respect to the Product, the rights transferred or assigned by Lilly under this Section 11.4(b)(ii).

(iii)Lilly hereby grants to Nektar a nonexclusive, transferrable, sublicensable license: (A) under the Lilly Patent Rights claiming Lilly Inventions, to make, have made, use, have used, sell, have sold, offer for sale, import and have imported any Compound or Product solely in the Field, and (B) under trade secrets related to a Compound or Product, to use such trade secrets in connection with the development, manufacture, commercialization or other exploitation of Compound or Product, in each case of the foregoing clauses (A) and (B) as each such Compound and Product exist [***]; provided that for any Compound or Product for which Lilly or its Affiliate has completed a [***], then Nektar agrees to pay Lilly a royalty equal to [***] of Net Product Sales in accordance with Section 6.3, Section 6.4(a) and Sections 6.5 - 6.11 applied *mutatis mutandis* (subject only to appropriate modifications of the references to the Product and

commercializing Party). [***]; provided, that Nektar and Lilly shall negotiate in good faith a commercially reasonable agreement pursuant to which [***]. In connection with the transfer of manufacturing capability for the Compound or Product to Nektar, Lilly agrees to transfer to Nektar or Nektar's designated contract manufacturing organization all necessary or useful (such usefulness as reasonably determined by Lilly) Technology under the Control of Lilly, including the Technology listed on **Schedule 11.4(b)(iii)**, subject to the Parties entering into an agreement outlining the specifics relating to such technology transfer including details of the Technology to be transferred, the deliverables to be achieved by Lilly, Nektar and Nektar's contract manufacturing organization, the estimated timing for completion of the Technology transfer and objective standards by which the Technology transfer shall be deemed to be complete. Lilly shall have the right to approve the contract manufacturing organization proposed by Nektar, such approval not to be unreasonably withheld or delayed. Lilly shall have the right to enter into an agreement with the Nektar contract manufacturing organization under which the contract manufacturing organization agrees to reasonable terms to safeguard proprietary and confidential information of Lilly to be included in the Technology transfer, and not to use such proprietary and confidential information of Lilly except to manufacture the Compound or Product for Nektar as provided herein.

(iv)any sublicense granted by Lilly or its Affiliate to a Third Party under the license granted under Section 2.2 shall survive the termination of this Agreement and become a direct license from Nektar to such Sublicensee only if in the case of termination of this Agreement for Lilly's uncured material breach pursuant to Section 11.3, such Sublicensee did not cause such uncured material breach, provided that in no event shall Nektar have any obligations under such sublicense beyond the obligations expressly set forth in this Agreement.

11.5 **Termination Not Sole Remedy**. Termination is not the sole remedy under this Agreement, and, whether or not termination is effected, all other remedies will remain available except as the Parties have expressly agreed to otherwise herein.

11.6 **Accrued and Surviving Obligations**. Upon expiration or termination of this Agreement or termination of this Agreement with respect to one or more particular Products, Compounds, or countries, the obligations that by their nature are intended to survive such expiration or termination will survive. In addition, Articles I, VIII (but only where the cause of action arose prior to such expiration or termination), IX and Article XIII and Sections 2.6, 4.11(c) (but only to the extent costs were incurred or accrued prior to such expiration or termination), 6.8 through 6.11 (with respect to amounts that become due prior to the effective date of expiration or termination), 7.2 through 7.4, 7.8, 7.11, 10.1, 10.2, 10.5, 10.6, 11.4(a) or 11.4(b) (as applicable), 11.6, 11.7, 12.5 through 12.7, 12.10 through 12.16 and 12.18 shall survive such expiration or termination. Such expiration or termination by either Party for any reason will not release either Party from any obligation that accrued prior to the effective date of expiration or termination.

11.7 **Bankruptcy**. All rights and licenses granted under or pursuant to this Agreement are, and will otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, licenses of rights to "intellectual property" as defined under Section 101 of the U.S. Bankruptcy Code. Further, the Parties agree (i) the intellectual property rights granted hereunder by each Party are personal to, and non-delegable by, the licensee and (ii) that each of them, as licensee of rights and licenses under this Agreement, will retain and may fully exercise all of its rights and elections to the extent permitted under applicable laws, including the U.S. Bankruptcy Code.

ARTICLE XII

MISCELLANEOUS

12.1 **Exclusivity**.

(a)Lilly and Nektar. Except pursuant to and in accordance with the terms of this Agreement (*e.g.*, Lilly's rights in respect of a Lilly Compound) or any related written agreement between the Parties, for the period commencing on the Effective Date and continuing until the First Commercial Sale of any Product (the "**Exclusivity Period**"), neither Party nor any of its Affiliates shall, directly or indirectly, develop, manufacture, commercialize or otherwise exploit, nor collaborate with, license, enable or otherwise authorize or grant any right or enabling covenant not-to-sue, to any Third Party to develop, manufacture, commercialize or otherwise exploit any Competing Product. [***].

(b)Nektar. Except pursuant to and in accordance with the terms of this Agreement or any related written agreement between the Parties for the Term, neither Nektar nor any of its Affiliates shall, directly or indirectly, develop, manufacture, commercialize or otherwise exploit, nor collaborate with, license, enable or otherwise authorize or grant any right or enabling covenant not-to-sue, to any Third Party to develop, manufacture, commercialize or otherwise exploit any Compound or Product.

12.2 **Compliance with Applicable Law and Lilly Anti-Corruption Policy**. Each Party agrees that it shall, and it shall cause its Affiliates to, comply in all material respects with applicable law in the course of performing its obligations or exercising its rights pursuant to this Agreement, including Lilly (and also Nektar, but only to the extent it has exercised its U.S. Co-Promotion Option pursuant to Section 5.4) causing its Affiliates, personnel or representatives to detail the Product, as applicable, in a manner consistent with the requirements of the Food, Drug, and Cosmetic Act and similar laws in countries other than the United States, including the regulations at 21 C.F.R. § 202. Furthermore, Nektar agrees to comply with the provisions of Lilly's Anti-Corruption Policy attached hereto as **Schedule 12.2**.

12.3 **Compliance with Party Specific Regulations**. The Parties agree to cooperate with each other as may reasonably be required to ensure that each is able to fully meet its obligations with respect to the Party Specific Regulations applicable to it. Neither Party shall be obligated to pursue any course of conduct that would result in such Party being in material breach of any Party Specific Regulation applicable to it. All Party Specific Regulations are binding only in accordance with their terms and only upon the Party to which they relate. For purposes of this Section 12.3, "**Party Specific Regulations**" shall mean all judgments, decrees, orders or similar decisions issued by any governmental authority specific to a Party, and all consent decrees, corporate integrity agreements, or other agreements or undertakings of any kind by a Party with any governmental authority, in each case as the same may be in effect from time to time and applicable to a Party's activities contemplated by this Agreement.

12.4 **Compliance with Internal Compliance Codes**. All Internal Compliance Codes shall apply only to the Party to which they relate. The Parties agree to cooperate with each other to ensure that each Party is able to comply with the substance of its respective Internal Compliance Codes and, to the extent practicable, to operate in a manner consist with its usual compliance-related processes. For purposes of this Section 12.4, "**Internal Compliance Codes**" shall mean a Party's internal policies and procedures intended to ensure that a Party complies with applicable laws, Party Specific Regulations, and such Party's internal ethical, medical and similar standards.

12.5 **Separate Entities / Disclaimer of Agency**. Nektar and Lilly are and will remain separate independent entities. This Agreement will not constitute, create or otherwise imply a joint venture, partnership or formal business organization of any kind, and no employee or contractor of either Party or its Affiliates will be considered an employee or contractor of the other Party or its Affiliates. Each Party to this Agreement will act as an independent contractor and not as an agent or legal representative of the other. Neither Party will have the right or authority to assume, create or incur any Third Party liability or other obligation or liability of any kind, express or implied, against or in the name of or on behalf of the other Party except as expressly set forth in this Agreement.

12.6 **Publications**. Nektar shall not have the right to, and shall not, publish or present any Product Specific Information or Technology that are necessary or useful for the development of the Product, without the prior written consent of Lilly (such consent not to be unreasonably withheld or delayed). Such prohibition shall not apply to the filing or prosecution of Patent Rights by Nektar in accordance with the terms and conditions of this Agreement or any other publication required by applicable law. Furthermore, at the conclusion of each clinical study and after all reasonable data verification procedures have been performed, the Parties shall work together on a plan to promptly publish such data at an appropriate scientific or medical meeting. In the event Nektar determines it has a legal obligation to disclose clinical trial results, then the Parties will promptly work together on the content of such disclosure. If Nektar requests Lilly's consent for any publication, Nektar shall afford Lilly a period of [***] to review any manuscript not yet presented for publication, and Lilly may reasonably delay or prevent such publication as Lilly in good faith believes necessary to protect Lilly's rights with respect to Compounds or Products. Lilly shall be entitled to issue scientific publications with respect to the Products or their testing in accordance with Lilly's internal guidelines, and Lilly shall afford Nektar a period of [***] to review any manuscript not yet presented for publication, and Nektar may reasonably delay or prevent such publication as Nektar in good faith believes necessary to protect Nektar Intellectual Property. Lilly may publish clinical trial information on Lilly's online database in accordance with its corporate policy. The scientific contributions of each Party will be noted as applicable in all publications or presentations.

12.7 **Publicity and Disclosure**.

(a)Publicity. Attached hereto as **Schedule 12.7** is the initial joint press release to be issued by the Parties promptly after execution of the Agreement. Either Party may, following the issuance of the above press release, make public statements or disclosures regarding the existence of this Agreement, the identity of the other Party and those terms of the Agreement that have already been publicly disclosed, without the consent of the other Party. Neither Party will disclose to the public any non-public information about this Agreement without the prior written consent of the other Party, except where required for any applicable laws, regulations, rules (including applicable taxing authority and/or stock exchange rules) or legal process relating to the Party or any Affiliate of the Party or as may be required for actions, procedures, suits, and the like arising out of this Agreement. Subject to the second sentence of this Section 12.7(a), neither Party shall use in advertising, publicity or otherwise the name or any trademark of the other Party without the prior written consent of the other Party.

(b)Disclosure. Each Party agrees that, in furtherance of any licensing or financing transactions or discussions with Third Parties interested in the technology or business of a Party to which this Agreement pertains, where the disclosure of the terms of this Agreement is reasonably necessary, the other Party may provide a redacted version of this Agreement to such Third Parties upon the advance execution of a binding confidentiality agreement between such Party and such Third Parties, unless such Third Party is otherwise bound by professional obligations of

confidentiality. For the avoidance of doubt, nothing set forth in this Section 12.7 shall modify, limit or restrict any disclosures of Confidential Information authorized by Section 9.2.

12.8 **Force Majeure**. If either Party is affected by any extraordinary, unexpected and unavoidable event, including acts of God, floods, fires, riots, terrorism, war, accidents, labor disturbances, breakdown of plant or equipment, lack or failure of transportation facilities, unavailability of equipment, sources of supply or labor, raw materials, power or supplies, infectious diseases of animals, or by the reason of any law, order, proclamation, regulation, ordinance, demand or requirement of the relevant government or any sub-division, authority or representative thereof (provided that in all such cases the Party claiming relief on account of such event can demonstrate that such event was extraordinary, unexpected and unavoidable by the exercise of reasonable care) ("**Force Majeure**"), it will as soon as reasonably practicable notify the other Party of the nature and extent thereof and take all reasonable steps to overcome the Force Majeure and to minimize the loss occasioned to the other Party. Neither Party will be deemed to be in breach of this Agreement or otherwise be liable to the other Party by reason of any delay in performance or nonperformance of any of its obligations hereunder to the extent that such delay and nonperformance is due to any Force Majeure of which it has notified the other Party; provided, however that such delay or nonperformance shall be excused for up to a maximum of [***], after which time the Parties will negotiate in good faith any modifications of the terms of this Agreement that may be necessary to arrive at an equitable solution.

12.9 **Assignment and Successors**.

(a)Assignment Generally. This Agreement may not be assigned or otherwise transferred by either Party without the prior written consent of the other Party, which consent will not be unreasonably withheld, conditioned or delayed; provided, however, each of the Parties may, without such consent, assign this Agreement and its rights and obligations hereunder to any of its Affiliates or in connection with the transfer or sale of all or substantially all of the portion of its business to which this Agreement relates or in the event of its merger or consolidation with a Third Party. Any permitted assignee will assume all obligations of its assignor under this Agreement in writing concurrent with the assignment. Notwithstanding the foregoing, Nektar may assign any or all of its rights under Article VI in connection with a financing transaction, and Lilly agrees that, upon written notice from Nektar (or any permitted assignee contemplated by this Section 12.9), Lilly shall deliver any future payments, together with any reports, notices or statements contemplated under Article VI, in accordance with the directions in such written notice (provided that Lilly is not required to deliver any of the aforementioned payments or information to more than one Person, at any one time). Any purported assignment in violation of this Section 12.9 will be void. Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns under this Section 12.9.

(b)Change of Control. Notwithstanding anything to the contrary herein, in the event of a Change of Control (directly or through a series of related transactions) to or by a Person engaged in the research, development, manufacture, and/or commercialization of pharmaceutical products: (i) Sections 3.10 shall not apply and Section 3.11 shall be given [***] application (for clarity, regardless of the stage of Product development) and Lilly shall have decision-making authority regarding any remaining Initial Development Phase activities, including the right to take over any such activities (while, for clarity, the cost sharing set forth in Section 4.11 shall continue to apply), (ii) the Product Development Plan will no longer be required to be delivered by Lilly pursuant to Section 4.2 (provided however, that information reasonably describing the use of proceeds under the Development Budget (as amended) for the Development Program will be

provided to Nektar (or its successor in interest), to the extent permitted under applicable law and reports will no longer be due under Section 4.3, (iii) the U.S. Co-Promotion Option shall expire, the U.S. Co-Promotion and Medical Support Agreement shall [***] terminate (with wind-down activities to be conducted in accordance with the terms and conditions of the U.S. Co-Promotion and Medical Support Agreement) and Section 5.4 shall be of no further force or effect, (iv) Nektar's rights to participate in regulatory activities under Section 4.7, to review publications under Section 12.6, and/or to exercise its rights under Section 2.5 with respect to the Lilly Compound, shall, in each case, expire and be of no further force or effect, and (v) Lilly shall have the right to cause Nektar (or its successor in interest) to assign (or otherwise provide the full benefit of) any agreement(s) with any Third Party(ies) related to the development, manufacture, commercialization or other exploitation of the Compound or Product.

12.10 **Notices**. Any consent, notice, report or other communication required or permitted to be given or made under this Agreement by one of the Parties to the other Party (a "**Notice**") will be delivered in writing by one of the following means and be effective: (a) upon receipt, if delivered personally; (b) when sent, if sent via e-mail (provided that such sent e-mail is kept on file (whether electronically or otherwise) by the sending Party and the sending Party does not immediately receive an automatically generated message from the recipient's e-mail server that such e-mail could not be delivered to such recipient); (c) when sent, if sent by facsimile (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending Party); or (d) when delivered by a reputable, commercial overnight courier; provided in all cases addressed to such other Party at its address indicated below, or to such other address as the addressee will have last furnished in writing to the addressor and will be effective upon receipt by the addressee.

If to Nektar:

Nektar Therapeutics
455 Mission Bay Boulevard South, Suite 100
San Francisco, California 94158
Attention: General Counsel
E-mail: [***]

If to Lilly:

Eli Lilly and Company
Lilly Corporate Center
Indianapolis, Indiana 46285
Attention: General Patent Counsel
Fax: 317-433-3000

Written confirmation of receipt (A) given by the recipient of such Notice, (B) mechanically or electronically generated by the sender's facsimile machine containing the time, date and recipient facsimile number or (C) provided by an overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile or receipt from an overnight courier service in accordance with clause (a), (c) or (d) above, respectively. A copy of the e-mail transmission containing the time, date and recipient e-mail address shall be rebuttable evidence of receipt by e-mail in accordance with clause (b) above

12.11 **Expenses; Execution of Agreement**. Each Party shall bear its own fees and other expenses (including attorneys' fees) in connection with the negotiation, preparation and execution of this Agreement. This Agreement may be executed in several counterparts, all of which shall constitute one

and the same Agreement. In the event that any signature is delivered by facsimile transmission or by an e-mail which contains a portable document format (.pdf) file of an executed signature page, such executed signature page shall create a valid and binding obligation of the Party executing it (or on whose behalf such signature page is executed) with the same force and effect as if such executed signature page were an original thereof.

12.12 **Governing Law**. This Agreement shall be governed by and interpreted in accordance with the laws of the [***], USA without regard to its conflicts of laws principles.

12.13 **Waiver**. The waiver by a Party of a breach or a default of any provision of this Agreement by the other Party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of a Party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any right, power or privilege by such Party. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving Party.

12.14 **Entire Agreement; Construction; Third-Party Beneficiaries**. This Agreement and the Schedules attached hereto (which Schedules are deemed to be a part of this Agreement for all purposes) contain the full understanding of the Parties solely with respect to the subject matter hereof and supersede all prior understandings and writings solely relating thereto. No alteration or modification of any of the provisions hereof shall be binding unless made in writing and signed by both Parties. The language used in this Agreement will be deemed to be the language chosen by the Parties to express their mutual intent, and no rules of strict construction will be applied against any Party. This Agreement is intended for the benefit of the Parties and their respective successors and permitted assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, other than the Parties and their respective successors and permitted assigns. The terms “herein,” “hereunder,” “hereof” and words of like import refer to this entire Agreement instead of just the provision in which they are found.

12.15 **Headings**. The headings contained in this Agreement are for convenience of reference only and shall not be considered in construing this Agreement.

12.16 **Severability**. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable because it is invalid or in conflict with any applicable law of any relevant jurisdiction, the validity of the remaining provisions shall not be affected, and the Parties shall negotiate in good faith a substitute provision that, to the extent possible, accomplishes the original business purpose. During the period of such negotiation, and thereafter if no substituted provision is agreed upon, any such provision which is enforceable in part but not in whole shall be enforced to the maximum extent permitted by applicable law.

12.17 **Performance by Affiliates**.

(a)Lilly. Lilly may discharge any obligation and exercise any right hereunder through any of its Affiliates. Lilly hereby guarantees the performance by its Affiliates of such obligations under this Agreement, and shall cause its Affiliates to comply with the provisions of this Agreement in connection with such performance. Any breach by an Affiliate of Lilly of any of Lilly's obligations under this Agreement shall be deemed a breach by Lilly, and Nektar may proceed directly against Lilly without any obligation to first proceed against such Affiliate. In the event it is subsequently determined that any Lilly Intellectual Property is Controlled by any Affiliate of Lilly and not by Lilly, Lilly shall cause such Affiliate to grant licenses to Nektar with respect to the same as if such rights were Controlled by Lilly.

(b)Nektar. Nektar shall have no right to discharge any obligation or exercise any right hereunder through any of its Affiliates except as may be expressly agreed in writing by Lilly. Where this Agreement expressly includes reference to Nektar Affiliates, or Lilly consents to the discharge of any obligations or exercise of any rights of Nektar hereunder though any Nektar Affiliate, Nektar hereby guarantees the performance by such Affiliate of such obligations under this Agreement and shall cause such Affiliate to comply with the provisions of this Agreement in carrying out such obligations in connection with such performance. Any breach of any such obligations by such Affiliate of Nektar shall be deemed a breach by Nektar, and Lilly may proceed directly against Nektar without any obligation to first proceed against such Affiliate. In the event it is subsequently determined that any Nektar Intellectual Property is Controlled by any Affiliate of Nektar and not by Nektar, Nektar shall cause such Affiliate to grant licenses to Lilly with respect to the same as if such rights were Controlled by Nektar.

Neither Party to this Agreement shall be deemed an Affiliate of the other Party by virtue of this Agreement.

12.18 **Other Activities**. The Parties acknowledge that, except as expressly provided in this Agreement, each of them may now or in the future engage in research, manufacturing, development or commercialization activities that utilize technologies similar to or involve products competitive with those contemplated by this Agreement. Except as may be expressly provided in this Agreement, nothing in this Agreement, including any obligation to promote Products or any restriction on the use of Confidential Information, shall create any obligation to utilize a separate sales force for Products. Subject to the exclusivity provisions of Section 12.1, neither Party shall be prevented from using any publicly available research results or other information (including any publicly available information of the other Party) to the same extent as Third Parties generally are legally permitted to do so. Each Party agrees to inform its key personnel assigned to the activities contemplated by this Agreement of the limitations on use of the disclosing Party's Confidential Information contained in this Agreement, instruct such personnel to comply with such restrictions, and where appropriate, impose firewalls or other appropriate measures to minimize the potential for misuse of information. However, each Party has limited resources, and as a result it is anticipated that personnel assigned to the activities contemplated by this Agreement may also participate in other activities that may utilize technologies similar to or involve products competitive with those contemplated by this Agreement. In particular, it is anticipated that personnel in sales, marketing, clinical and regulatory functions, regardless of level, will participate in multiple programs and that management personnel will by nature of their leadership positions participate in multiple programs.

12.19 **HSR Filing**. If required by applicable law, promptly after the execution of this Agreement, both Parties shall promptly file the appropriate notices under the Hart Scott Rodino Antitrust Improvements Act ("**HSR Act**"). The Parties shall promptly make required filings to obtain clearance under the HSR Act for the consummation of this Agreement and the transactions contemplated hereby and shall keep each other apprised of the status of any communications with, and any inquiries or requests

for additional information from, the United States' Federal Trade Commission ("**FTC**") and Department of Justice ("**DOJ**") and shall comply promptly with any reasonable FTC or DOJ inquiry or request of this nature; provided, however, neither Party shall be required to consent to the divestiture or other disposition of any of its assets or the assets of its Affiliates or to consent to any other structural or conduct remedy, and each Party and its Affiliates shall have no obligation to contest, administratively or in court, any ruling, order or other action of the FTC or DOJ or any Third Party with respect to the transactions contemplated by this Agreement. Each Party shall be responsible for paying the filing fees it incurs in connection with the HSR filings. In the event the Parties determine that HSR filings are required, the Effective Date shall not be deemed to have occurred until the HSR Clearance Date. As used herein, the "**HSR Clearance Date**" means the earlier of (a) the date on which the FTC or DOJ shall notify the Parties of early termination of the waiting period under the HSR Act or (b) the date on which the applicable waiting period under the HSR Act expires; provided, however, that if the FTC or DOJ commences any investigation by means of a second request or otherwise, HSR Clearance Date means the date on which any investigation opened by the FTC or DOJ has been terminated, without action to prevent the Parties from implementing the transactions contemplated by this Agreement with respect to the United States. Notwithstanding any other provisions of this Agreement to the contrary, either Party may terminate this Agreement effective upon notice to the other Party if the HSR Clearance Date has not occurred on or before the date that is one hundred twenty (120) days after the Parties make their respective HSR filings.

ARTICLE XIII

DISPUTE RESOLUTION

13.1 **Dispute Resolution**. In the event of a dispute, controversy or claim under, arising out of or relating to this Agreement that is not subject to the JSC's jurisdiction (*e.g.*, a dispute related to whether a Party has performed its obligations under this Agreement) (a "**Dispute**"), the Parties shall refer such dispute to the Executive Officers for attempted resolution by good faith negotiations within [***] after such referral is made. If the Executive Officers are unable to resolve such Dispute in a timely manner, which shall in no case be more than [***] after the matter was referred to them, then either Party shall have the right to avail itself of, subject to the terms and conditions of this Agreement, any rights or remedies available at law or equity.

13.2 **No Delay in Unrelated Payments**. In the event of a Dispute, a Party shall have no right to toll or delay any payment or other obligation in this Agreement unrelated to the Dispute as a result of the Dispute.

[*signature pages follow*]

In Witness Whereof, the Parties have executed this Agreement to be effective as of the Effective Date.

EXECUTED

Signed on behalf of)
Eli Lilly and Company)
)
)

/s/ David A. Ricks
Signature of Authorized Officer

David A. Ricks
Name of Authorized Officer (please print)

Signed on behalf of)
Nektar Therapeutics)
)
)

/s/ John Nicholson
Signature of Authorized Officer

John Nicholson
Name of Authorized Officer (please print)

*****Text Omitted and Filed Separately with the Securities and Exchange Commission. Confidential Treatment Requested Under 17 C.F.R. Sections 200.80(b)(4) and 240.24b-2**

Index of Schedules:

Schedule 1.1(a) – NKTR-358
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Schedule 4.1 – Initial Product Development Plan
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Schedule 5.1(b) Part B– [***] Supply Agreement Term Sheet
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Schedule 12.2 - Lilly Anti-Corruption Policy
Schedule 12.7 - Initial Press Release

SCHEDULE 1.1(a)
NKTR-358

NKTR-358	[***]

SCHEDULE 1.1(a)

License Agreement_Nektar_Eli Lilly_July 2017

SCHEDULE 1.1(b)

[***]

SCHEDULE 1.1(b)

License Agreement_Nektar_Eli Lilly_July 2017

SCHEDULE 1.1(c)

[***]

SCHEDULE 1.1(c)

License Agreement_Nektar_Eli Lilly_July 2017

SCHEDULE 1.1(d)
Nektar Controlled Patents

[***]

SCHEDULE 1.1(d)

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SCHEDULE 1.1(e)
Nektar Exclusive Patents

[***]

SCHEDULE 1.1(e)

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SCHEDULE 4.1
Initial Product Development Plan

[***]

SCHEDULE 4.1

License Agreement_Nektar_Eli Lilly_July 2017

SCHEDULE 4.8 PART A
Eli Lilly and Company Good Research Practices

Lilly's quality standards, along with the high level expectations for each standard, are listed below:

[***]

SCHEDULE 4.8 PART A

SCHEDULE 4.8 PART B
Eli Lilly and Company Animal Care and Use Requirement for Animal Researchers and Suppliers

Lilly recognizes that we have an ethical and scientific obligation to ensure the appropriate treatment of animals used in research. We expect all organizations with which we contract for animal research or supply to comply with all applicable country and local regulations dealing with the appropriate use and care for animals. We also expect Third Party organizations to apply the Lilly Principles for animal care and use.

Lilly also actively encourages animal research and animal supply companies, both inside and outside the United States, to obtain and maintain accreditation from the Association for Assessment and Accreditation of Laboratory Animal Care (AAALAC). Through active engagement, Lilly is helping to raise the standards of animal care and use in countries that have not had such standards or enforced them. These principles are internationally recognized standards for appropriate animal care and use. Lilly is requesting assurance that all Third Party suppliers of animal research or animals read, understand and comply with this Appendix.

1. **Compliance**. Lilly expects all individuals and organizations with which Lilly contracts for animal research services ("**Researchers**"), or the supply of animals to be used in Lilly research ("**Suppliers**"), to do the following for each location at which Researchers and Suppliers use or hold animals:

   a. comply with all applicable country and local laws, regulations, and standards regarding the care and use of animals,

   b. comply with the Lilly animal care and use principles stated below even if they impose requirements beyond the applicable local legal requirements,

   c. establish a mechanism to assess compliance with such laws, regulations, standards, and the Lilly principles stated below, and

   d. regularly assess and report to its management the status of compliance with these requirements.

2. **Lilly Principles for Animal Care and Use**.

   a. Animal Care. Researchers and Suppliers must provide living conditions for research animals that are appropriate for their species and contribute to their health and well-being. Personnel who care for animals or who conduct animal studies must be appropriately qualified regarding the proper care and use of animals in research.

   b. Studies. Researchers must assure that studies involving animals are designed and conducted in accordance with both:

      (i) applicable country and local regulatory guidance, and

      (ii) the following widely recognized principles of animal care and use:

- with due consideration of the relevance of the study to human or animal health and the advancement of scientific knowledge
- selecting only animals appropriate for that study
- using only the minimum number of animals required to obtain valid results
- using alternative methods instead of live animals when appropriate
- avoiding or minimizing discomfort and distress to the animals.

3. **Reporting**. Researchers and Suppliers must report to Lilly any animal welfare issues or concerns that may affect the welfare of animals or validity of the testing being conducted. This would include but is not limited to any animal illness, disease outbreaks, or any significant (i.e., reportable to a government authority) non-compliance with any country or local animal welfare laws, regulations, or standards, or the Lilly principles stated above.

4. **Audits/Monitoring**. Lilly has the discretion to periodically assess Researchers' and Suppliers' animal use, care, and welfare in accordance with the auditing/monitoring provisions stated in the contract.

SCHEDULE 4.8 PART B

License Agreement_Nektar_Eli Lilly_July 2017

SCHEDULE 5.1(b) PART A
[***] Supply Agreement Term Sheet

1. [***] Supply Agreement – [***] of the Effective Date

[***].

SCHEDULE 5.1(b) PART A

SCHEDULE 5.1(b) PART B
[***] Supply Agreement Term Sheet

[***]

SCHEDULE 5.1(b) PART B

License Agreement_Nektar_Eli Lilly_July 2017

SCHEDULE 5.2
[***] **Transfer by Nektar**

[***]

SCHEDULE 5.2

License Agreement_Nektar_Eli Lilly_July 2017

o*Text Omitted and Filed Separately with the Securities and Exchange Commission. Confidential Treatment Requested Under 17 C.F.R. Sections 200.80(b)(4) and 240.24b-2**

SCHEDULE 6.4(b)
Effect of Partial Share Election

[***]

SCHEDULE 6.4(b)

License Agreement_Nektar_Eli Lilly_July 2017

SCHEDULE 10.3(d)

[***]

SCHEDULE 10.3(d)

License Agreement_Nektar_Eli Lilly_July 2017

SCHEDULE 11.4(b)(iii)
Technology to be Transferred to Nektar

[***]

SCHEDULE 11.4(b)(iii)

License Agreement_Nektar_Eli Lilly_July 2017

SCHEDULE 12.2
Anti-Corruption

1. "**Government Official**" means: (i) any officer or employee of: (a) a government, or any department or agency thereof; (b) a government-owned or controlled company, institution, or other entity, including a government-owned hospital or university; or (c) a public international organization (such as the United Nations, the International Monetary Fund, the International Committee of the Red Cross, and the World Health Organization), or any department or agency thereof; (ii) any political party or party official or candidate for public or political party office; and (iii) any person acting in an official capacity on behalf of any of the foregoing.

2. **Compliance with Anti-Corruption Laws**. In connection with this Agreement, Nektar has complied and will comply with all applicable local, national, and international laws, regulations, and industry codes dealing with government procurement, conflicts of interest, corruption or bribery, including, if applicable, the U.S. Foreign Corrupt Practices Act of 1977 ("**FCPA**"), as amended, and any laws enacted to implement the Organisation of Economic Cooperation and Development ("**OECD**") Convention on Combating Bribery of Foreign Officials in International Business Transactions.

3. **Prohibited Conduct**. In connection with this Agreement, Nektar has not made, offered, given, promised to give, or authorized, and will not make, offer, give, promise to give, or authorize, any bribe, kickback, payment or transfer of anything of value, directly or indirectly, to any person or to any Government Official for the purpose of: (i) improperly influencing any act or decision of the person or Government Official; (ii) inducing the person or Government Official to do or omit to do an act in violation of a lawful or otherwise required duty; (iii) securing any improper advantage; or (iv) inducing the person or Government Official to improperly influence the act or decision of any organization, including any government or government instrumentality, to assist Nektar or Lilly in obtaining or retaining business.

4. **Compliance**

(a) Requests for Information. Nektar will make all reasonable efforts to comply with requests for disclosure of information, including answering questionnaires and narrowly tailored audit inquiries, to enable Lilly to ensure compliance with all applicable laws, including anti-corruption laws, and this Agreement.

(b) Notice of Inspections. During any period where Nektar is providing development services to Lilly, Nektar shall provide Lilly with immediate notice of any governmental investigation or proceeding that specifically relates to the subject matter of this Agreement. Nektar shall provide Lilly with the results of any such investigation or proceeding. Lilly shall be given the opportunity to provide assistance to Nektar in responding to any such investigation or proceeding.

(c) Accuracy of Books and Records / Cooperation with Audit Activities. Nektar agrees that it will maintain accurate and complete records having to do with this Agreement during the term of this Agreement and for a period of 24 months thereafter. Nektar further agrees that it will maintain adequate internal controls. Nektar will make relevant documents available for review by Lilly, or an independent party nominated by Lilly, to show compliance with this requirement at Lilly's request.

(d) Disclosure Rights. At any time, Lilly may disclose information relating to a possible violation of law, or the existence of the terms of this Agreement, including the compensation provisions, to a government agency and to agents and representatives of Lilly.

o*Text Omitted and Filed Separately with the Securities and Exchange Commission. Confidential Treatment Requested Under 17 C.F.R. Sections 200.80(b)(4) and 240.24b-2**

SCHEDULE 12.7
Initial Press Release

For Release: Draft 7/23

Refer to: Lauren Zierke; lauren_zierke@lilly.com; 317-277-6524 (Lilly Media)

Phil Johnson; johnson_philip_l@lilly.com; 317-655-6874 (Lilly Investors)

Dan Budwick; dan@1abmedia.com; 973-271-6085 (Nektar Media)

Jennifer Ruddock; jruddock@nektar.com; 415-482-5585 (Nektar Investors)

Lilly and Nektar Therapeutics Announce Alliance to Develop and Commercialize NKTR-358, A Novel Autoimmune Therapy

INDIANAPOLIS & SAN FRANCISCO — Eli Lilly and Company (NYSE: LLY) and Nektar Therapeutics (NASDAQ: NKTR) have announced a strategic collaboration to co-develop NKTR-358, a novel immunological therapy discovered by Nektar. NKTR-358, which achieved first human dose in Phase 1 clinical development in March of 2017, has the potential to treat a number of autoimmune and other chronic inflammatory conditions.

NKTR-358 is a potential first-in-class resolution therapeutic that may address an underlying immune system imbalance in patients with many autoimmune conditions. It targets the interleukin (IL-2) receptor complex in the body in order to stimulate proliferation of powerful inhibitory immune cells known as regulatory T cells. By activating these cells, NKTR-358 may act to bring the immune system back into balance. This could lead to a profound clinical impact and healthy organ function in autoimmune conditions.

"We look forward to working with Nektar to study this novel approach to treating a number of autoimmune conditions," said Thomas F. Bumol, Ph.D., Senior Vice President of Biotechnology and Immunology Research at Lilly. "NKTR-358 is an exciting addition to our immunology portfolio and reinforces Lilly’s commitment to sustain a flow of innovative medicines in our pipeline."

Under the terms of the agreement, Nektar will receive an initial payment of $150 million and is eligible for up to $250 million in additional development and regulatory milestones. Lilly and Nektar will co-develop NKTR-358 with Nektar responsible for completing Phase 1 clinical development. The parties will share Phase 2 development costs 75 percent Lilly and 25 percent Nektar. Nektar will have the option to participate in Phase 3 development on an indication-by-indication basis. Nektar has the opportunity to receive double-digit royalties that increase commensurate with their Phase 3 investment and product sales. Lilly will be

responsible for all costs of global commercialization. Nektar will have an option to co-promote in the U.S. under certain conditions.

“We are very pleased to enter into this collaboration with Lilly as they have strong expertise in immunology and a successful track record in bringing novel therapies to market,” said Howard W. Robin, Nektar’s President and Chief Executive Officer. “Importantly, this agreement enables the broad development of NKTR-358 in multiple autoimmune conditions in order to achieve its full potential as a first-in-class resolution therapeutic.”

This transaction is subject to clearance under the Hart-Scott-Rodino Antitrust Improvements Act and other customary closing conditions. Subject to the closing of this transaction, Lilly expects to incur an acquired in-process research and development charge to earnings in 2017 of approximately $0.09 per share. The company's reported earnings per share guidance in 2017 is expected to be reduced by the amount of the charge. There will be no change to the company's non-GAAP earnings per share guidance as a result of this transaction.

About Eli Lilly and Company
Lilly is a global healthcare leader that unites caring with discovery to make life better for people around the world. We were founded more than a century ago by a man committed to creating high-quality medicines that meet real needs, and today we remain true to that mission in all our work. Across the globe, Lilly employees work to discover and bring life-changing medicines to those who need them, improve the understanding and management of disease, and give back to communities through philanthropy and volunteerism. To learn more about Lilly, please visit us at www.lilly.com and http://newsroom.lilly.com/social-channels.

About Nektar Therapeutics
Nektar Therapeutics is a research-based biopharmaceutical company whose mission is to discover and develop innovative medicines to address the unmet medical needs of patients. Our R&D pipeline of new investigational medicines includes treatments for cancer, auto-immune disease and chronic pain. We leverage Nektar's proprietary and proven chemistry platform in the discovery and design of our new therapeutic candidates. Nektar is headquartered in San Francisco, California, with additional operations in Huntsville, Alabama and Hyderabad, India. Further information about the company and its drug development programs and capabilities may be found online at http://www.nektar.com.

C-LLY

SCHEDULE 12.7

License Agreement_Nektar_Eli Lilly_July 2017

Lilly Forward-Looking Statement

This press release contains forward-looking statements (as that term is defined in the Private Securities Litigation Reform Act of 1995) about the benefits of a strategic alliance between Lilly and Nektar Therapeutics, and the potential benefits of NKTR-358, and reflects Lilly's current beliefs. However, as with any such undertaking, there are substantial risks and uncertainties in the process of drug development and commercialization. Among other things, there can be no guarantee that Lilly will realize the expected benefits of the collaboration, or that NKTR-358 will yield commercially successful products. For a further discussion of these and other risks and uncertainties that could cause actual results to differ from Lilly's expectations, please see Lilly's most recent Forms 10-K and 10-Q filed with the U.S. Securities and Exchange Commission. Lilly undertakes no duty to update forward-looking statements.

Nektar Cautionary Note Regarding Forward-Looking Statements

This press release contains forward-looking statements which can be identified by words such as: "potential," "plan," "expect," "should," "will" and similar references to future periods. Examples of forward-looking statements include, among others, statements we make regarding: (i) the therapeutic and commercial potential of NKTR-358; (ii) development plans related to NKTR-358; and (iii) the potential of our technology and drug candidates in our research and development pipeline. Forward-looking statements are neither historical facts nor assurances of future performance. Instead, they are based only on our current beliefs, expectations and assumptions regarding the future of our business, future plans and strategies, anticipated events and trends, the economy and other future conditions. Our actual results may differ materially from those indicated in the forward-looking statements. Therefore, you should not rely on any of these forward-looking statements. Important factors that could cause our actual results to differ materially from those indicated in the forward-looking statements include, among others: (i) NKTR-358 is in early-stage clinical development and the risk of failure remains high and failure can unexpectedly occur; (ii) the timing of the commencement or end of clinical trials and the availability of clinical data may be delayed or unsuccessful due to many factors; (iii) patents may not issue from our patent applications for NKTR-358, patents that have issued may not be enforceable, or additional intellectual property licenses from third parties may be required; and (iv) certain other important risks and uncertainties set forth in our Quarterly Report on Form 10-Q with the Securities and Exchange Commission on May 10, 2017. Any forward-looking statement made by us in this press release is based only on information currently available to us and speaks only as of the date on which it is made. We undertake no obligation to update any forward-looking statement, whether written or oral, that may be made from time to time, whether as a result of new information, future developments or otherwise.

##

SCHEDULE 12.7

License Agreement_Nektar_Eli Lilly_July 2017

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "**Lease**") is made this 4 day of August, 2017, between **ARE-SAN FRANCISCO NO. 19, LLC**, a Delaware limited liability company ("**Landlord**"), and **NEKTAR THERAPEUTICS**, a Delaware corporation ("**Tenant**").

BASIC LEASE PROVISIONS

Address: 455 Mission Bay Boulevard South, San Francisco, California

Premises: A total of 128,793 rentable square feet, as shown on **Exhibit A**, consisting of (i) approximately 102,283 rentable square feet being the first through fifth floors of the west wing (also known as building 2) of the Project (the "**West Wing Portion**"), (ii) approximately 2,508 rentable square feet being on a portion of the fifth floor of the east wing of the Building (the "**East Wing Fifth Floor Portion**"), and (iii) approximately 24,002 rentable square feet being the entire second floor of the east wing of the Building (the "**East Wing Second Floor Portion**"; collectively with the East Wing Fifth Floor Portion being the "**East Wing Portion**"). The rentable square footage of the Premises is subject to adjustment as provided for in Section 5 hereof.

Project: The real property on which the building (the "**Building**") in which the Premises are located, together with all improvements thereon and appurtenances thereto as described on **Exhibit B**.

Base Rent: $4.75 per rentable square foot of the Premises per month, subject to adjustment pursuant to Section 4 hereof.

Rentable Area of Premises: 128,793 sq. ft.

Rentable Area of Project: 210,000 sq. ft.

Tenant's Share of Operating Expenses: 61.33%

Security Deposit: $1,835,300.25 pursuant to Section 6 below.

Commencement Date: February 1, 2020

Rent Adjustment Percentage: 3%

Base Term: Beginning on the Commencement Date and ending on January 31, 2030.

Permitted Use: Medical research and biotechnical research and development facility, related laboratory, office and other related uses consistent with the character of the Project (including a commercial kitchen and gymnasium for the benefit of Tenant's employees and invitees) and otherwise in compliance with the provisions of Section 7 hereof including, without limitation, a cafeteria, gymnasium locker room and pantry.

Address for Rent Payment:
ARE-San Francisco No. 19, LLC
Alexandria Real Estate Equities, Inc.
P. O. Box 31001-2384
Pasadena, CA 91101-2384

Landlord's Notice Address:
385 E. Colorado Boulevard, Suite 299
Pasadena, CA 91101
Attention: Corporate Secretary

Tenant's Notice Address:
455 Mission Bay Boulevard South
San Francisco, CA 94158
Attention: General Counsel

The following Exhibits and Addenda are attached hereto and incorporated herein by this reference:

[X] **EXHIBIT A** - PREMISES DESCRIPTION
[X] **EXHIBIT B** - DESCRIPTION OF PROJECT
[X] **EXHIBIT C** - WORK LETTER
[X] **EXHIBIT D** - COMMENCEMENT DATE
[X] **EXHIBIT E** - RULES AND REGULATIONS
[X] **EXHIBIT F** - TENANT'S PERSONAL PROPERTY
[X] **EXHIBIT G** - PARKING
[X] **EXHIBIT H** - MISSION BAY REQUIREMENTS
[X] **EXHIBIT I** - SUCCESSOR PROJECT LABOR AGREEMENT[X] **EXHIBIT J** - ROOF EQUIPMENT
[X] **EXHIBIT K** - CFD NOTICES
[X] **EXHIBIT L** - MUST TAKE SPACE
[X] **EXHIBIT M** - ROFO SPACE
[X] **EXHIBIT N** - PARKING DIAGRAM

1. **Lease of Premises**. Upon and subject to all of the terms and conditions hereof, Landlord hereby leases the Premises to Tenant and Tenant hereby leases the Premises from Landlord. The portions of the Project which are for the non-exclusive use of tenants of the Project are collectively referred to herein as the "**Common Areas**." Landlord reserves the right to modify Common Areas, provided that such modifications do not materially adversely affect Tenant's use of the Premises for the Permitted Use.

2. **Delivery; Acceptance of Premises; Commencement Date**. The Term of this Lease for the Premises shall commence on February 1, 2020 (the "**Commencement Date**"). Tenant is currently in possession of the West Wing Portion of the Premises as a subtenant of Pfizer, Inc. ("**Pfizer**") pursuant to a sublease agreement (the "**Pfizer Sublease**") currently scheduled to expire on January 30, 2020; provided, however, that Tenant has advised Landlord that the Pfizer Sublease provides that if Tenant and Landlord enter into a direct lease for the Premises, then the sublease expiration date will be extended to January 31, 2020. In addition, Tenant is currently in possession of the East Wing Portion of the Premises pursuant to a Lease Agreement between Landlord and Tenant dated September 30, 2009 (as the same has been and may in the future be amended, the "**Existing Lease Agreement**"). Concurrently with the mutual execution of this Lease, Landlord and Pfizer are negotiating to enter into an amendment (the "**Pfizer Amendment**") to Pfizer's direct lease with Landlord (the "**Pfizer Lease**") pursuant to which the Pfizer Lease will terminate effective as of January 31, 2020. Notwithstanding anything to the contrary contained in this Lease, the effectiveness of this Lease and the obligations of the parties hereunder are conditioned on the full execution of the Pfizer Amendment on or before the date which is thirty (30) days following the full execution of this Lease by Landlord and Tenant (the "**Condition Precedent**"). Landlord shall provide Tenant with prompt written notice if the Condition Precedent is satisfied. Landlord shall have no liability to Tenant if the Condition Precedent is not satisfied; provided, however, in such event this Lease shall be void and of no further force or effect. Notwithstanding anything to the contrary in the Existing Lease Agreement or Consent to Sublease dated September 30, 2009, between Landlord, Pfizer and Tenant relating to the Pfizer Sublease, in no event shall the Pfizer Amendment affect the enforceability of the Existing Lease Agreement as it relates to the West Wing Portion. The Existing Lease Agreement shall continue to govern with respect to the East Wing Portion of the Premises through January 31, 2020. Upon request of Landlord, Tenant shall execute and deliver a written acknowledgment of the Commencement Date in the form of the "Acknowledgement of Commencement Date" attached to this Lease as **Exhibit D**; provided, however, Tenant's failure to execute and deliver such acknowledgment shall not affect Landlord's rights hereunder. The "**Term**" of this Lease shall be the Base Term, as defined above, and shall include any Extension Term(s) pursuant to Section 41 below.

Notwithstanding anything to the contrary contained in this Section 2, Landlord and Tenant acknowledge and agree that the Term of this Lease may commence with respect to any Must Take Space (as such term is defined in Section 39 below) prior to the Commencement Date subject to the terms of Section 39 below. If any increment of Must Take Space is added to the Premises prior to the Commencement Date, then with respect to such increment of Must Take Space, references in this Lease

to the Commencement Date shall be deemed to mean the subject Commencement Date of such increment of Must Take Space as more fully set forth in Section 39 below.

Except as otherwise set forth below, Tenant shall accept the Premises in their as is condition as of the Commencement Date. Tenant agrees and acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of all or any portion of the Premises or the Project, and/or the suitability of the Premises or the Project for the conduct of Tenant's business, and Tenant waives any implied warranty that the Premises or the Project are suitable for the Permitted Use. This Lease constitutes the complete agreement of Landlord and Tenant with respect to the subject matter hereof and supersedes any and all prior representations, inducements, promises, agreements, understandings and negotiations which are not contained herein. Landlord in executing this Lease does so in reliance upon Tenant's representations, warranties, acknowledgments and agreements contained herein.

For the period of 90 days after the Commencement Date and 90 days after each Must Take Delivery Date, Landlord shall be responsible to perform any repairs that are required to be made to those Building Systems (as defined in Section 13) serving the applicable increment of Premises just delivered to Tenant, and Tenant shall not be required to pay its pro rata share of the cost of such repairs attributable to the applicable increment of the Premises unless Tenant or any Tenant Party was responsible for the cause of such repair, in which case Tenant shall pay the cost. For example, if Landlord is required to perform any repairs to Building Systems serving Space #1 (as defined in Section 39(a)(i) hereof (for which neither Tenant nor any Tenant Party is responsible) within 90 days after the Space #1 Commencement Date, Tenant would be required to pay Tenant's Share of Operating Expenses with respect to the cost of such repairs attributable to the original Premises (i.e., 61.33%), but not be required to pay Tenant's Share of Operating Expenses with respect to the cost of such repairs attributable to Space #1 (i.e., 2.20%). For the avoidance of any doubt, the 90-day period provided for in the preceding sentence applies separately to each increment of the Premises then being delivered so that in no event shall any new 90-day period (or any extension of any then applicable 90 day period) apply to any previously delivered increment of the Premises. Upon Tenant's request, within 5 business days following the Commencement Date and each Must Take Delivery Date or ROFO Delivery Date, as the case may be, Landlord and Tenant shall conduct a joint walk-through of the subject increment of the Premises and identify any Building Systems serving only such subject increment of the Premises which are in need of repair, and Landlord shall use reasonable efforts to promptly repair any items so identified as in need of repair at Landlord's sole cost and expense, and such costs shall be excluded from Operating Expenses.

3. **Rent**.

(a) **Base Rent**. Except as expressly provided for in this Lease, Tenant shall pay to Landlord in advance, without demand, abatement, deduction or set-off, monthly installments of Base Rent on or before the first day of each calendar month during the Term hereof, in lawful money of the United States of America, at the office of Landlord for payment of Rent set forth above, or to such other person or at such other place as Landlord may from time to time designate in writing. Payments of Base Rent for any fractional calendar month shall be prorated. Tenant shall have no right at any time to abate, reduce, or set-off any Rent (as defined in Section 5) due hereunder except for any abatement as may be expressly provided in this Lease. Tenant shall be permitted to pay to Landlord all amounts due hereunder by electronic funds transfer.

Notwithstanding the foregoing to the contrary, provided that Tenant is not in Default under this Lease during the Abatement Period, Landlord agrees to abate the Base Rent due for the Premises for the time period from February 1, 2020, through May 31, 2020 (the "**Abatement Period**"). The total Base Rent abated during the Abatement Period is hereby stipulated to be $2,447,067.00 (i.e., equal to 4 months of abatement for the Premises) (the "**Abated Rent**"). During the Abatement Period Tenant shall pay Operating Expenses and any and all other sums due under this Lease without abatement. For the avoidance of any doubt, to the extent Tenant leases additional space either pursuant to the Must Take Provision set forth in

Section 39 below or the Right of First Offer set forth in Section 40 below, the abatement of Base Rent for the Abatement Period shall not apply with respect to any such additional space leased by Tenant.

(b) **Additional Rent**. In addition to Base Rent, commencing on the Commencement Date, Tenant agrees to pay to Landlord as additional rent ("**Additional Rent**"): (i) Tenant's Share of "Operating Expenses" (as defined in Section 5), and (ii) any and all other amounts Tenant assumes or agrees to pay under the provisions of this Lease, including, without limitation, any and all other sums that may become due by reason of any default of Tenant or failure to comply with the agreements, terms, covenants and conditions of this Lease to be performed by Tenant, after any applicable notice and cure period.

4. **Base Rent Adjustments**. Base Rent shall be increased on each anniversary of the Commencement Date (each an "**Adjustment Date**") by multiplying the Base Rent payable immediately before such Adjustment Date by the Rent Adjustment Percentage and adding the resulting amount to the Base Rent payable immediately before such Adjustment Date. Base Rent, as so adjusted, shall thereafter be due as provided herein. Base Rent adjustments for any fractional calendar month shall be prorated based on the number of days in the subject calendar month.

5. **Operating Expense Payments**. Landlord shall deliver to Tenant a written estimate of Operating Expenses for each calendar year during the Term (the "**Annual Estimate**"), which may be revised by Landlord from time to time but in no event more than twice during such calendar year. During each month of the Term, on the same date that Base Rent is due, Tenant shall pay Landlord an amount equal to 1/12th of Tenant's Share of the Annual Estimate. Payments for any fractional calendar month shall be prorated based on the number of days in the subject calendar month.

The term "**Operating Expenses**" means all costs and expenses of any kind or description whatsoever incurred or accrued each calendar year by Landlord with respect to the Project (including, without duplication, Taxes (as defined in Section 9), capital repairs and improvements to the Project amortized over the useful life of such capital items (as reasonably determined by Landlord taking into account all relevant factors), and the costs of Landlord's third party property manager not to exceed 1.0% of Base Rent, if there is no third party property manager, administration rent not to exceed 1.0% of Base Rent, excluding only:

(a) the original construction costs of the Project and renovation prior to the date of the Lease and costs of correcting defects in such original construction or renovation;

(b) capital expenditures for expansion of the Project;

(c) interest, points, fees, principal payments of Mortgage (as defined in Section 27) debts of Landlord, financing costs and amortization of funds borrowed by Landlord, whether secured or unsecured;

(d) depreciation of the Project (except for capital improvements, the cost of which are includable in Operating Expenses on an amortized basis);

(e) advertising, legal and space planning expenses and leasing commissions and other costs and expenses incurred in procuring and leasing space to tenants for the Project, including any leasing office maintained in the Project or outside of the Project, free rent and construction allowances for tenants and dues paid to trade associations and similar expenses if there is no resulting benefit to the Building;

(f) legal and other expenses incurred in the negotiation or enforcement of leases or the securing or defense of Landlord's title to the Building or the Project;

(g) completing, fixturing, improving, renovating, painting, redecorating or other work, which Landlord pays for or performs for other tenants within their premises, and costs of correcting defects in such work;

(h) costs to be reimbursed by other tenants of the Project or Taxes to be paid directly by Tenant or other tenants of the Project, whether or not actually paid;

(i) salaries, wages, benefits and other compensation paid to officers and employees of Landlord who are not assigned in whole or in part to the operation, management, maintenance or repair of the Project;

(j) general organizational, administrative and overhead costs relating to creating or maintaining Landlord's existence, either as a corporation, partnership, or other entity, including general corporate, legal and accounting expenses and all general corporate overhead and general administrative expenses not related to the operation of Building or the Project;

(k) costs (including attorneys' fees and costs of settlement, judgments and payments in lieu thereof) incurred in connection with disputes with tenants, other occupants, or prospective tenants, and costs and expenses, including legal fees, incurred in connection with negotiations or disputes with employees, consultants, management agents, leasing agents, purchasers or mortgagees of the Building;

(l) costs incurred by Landlord due to the violation by Landlord, its employees, agents or contractors or any tenant of the terms and conditions of any lease of space in the Project or any Legal Requirement (as defined in Section 7);

(m) penalties, fines or interest incurred as a result of Landlord's inability or failure to make payment of Taxes and/or to file any tax or informational returns when due, or from Landlord's failure to make any payment of Taxes required to be made by Landlord hereunder before delinquency;

(n) overhead and profit increment paid to Landlord or to subsidiaries or affiliates of Landlord for goods and/or services in or to the Project to the extent the same exceeds the costs of such goods and/or services rendered by unaffiliated third parties on a competitive basis;

(o) costs of Landlord's charitable or political contributions, or of fine art maintained at the Project;

(p) costs in connection with services (including electricity), items or other benefits of a type which are not standard for the Project and which are not available to Tenant or any other tenant in the Building without specific charges therefor, but which are provided to another tenant or occupant of the Project, whether or not such other tenant or occupant is specifically charged therefor by Landlord;

(q) costs incurred in the sale, financing or refinancing of the Project (including, without limitation, transfer taxes);

(r) net income taxes of Landlord or the owner of any interest in the Project, franchise, transfer, capital stock, gift, estate or inheritance taxes or any federal, state or local documentary taxes imposed against the Project or any portion thereof or interest therein; and

(s) any expenses otherwise includable within Operating Expenses to the extent actually reimbursed by persons other than tenants of the Project under leases for space in the Project

(t) salaries and benefits and other compensation to executives, officers or partners of Landlord above the grade of building manager or to any other person above the grade of building manager;

(u) Landlord's costs of electricity and other services sold or provided to tenants in the Building (including Tenant) and for which Landlord is entitled to be reimbursed by such tenants as a separate additional charge or rental over and above the Base Rent or Operating Expenses payable under the lease with such tenant;

(v) costs incurred in connection with environmental clean up, response action or remediation on, in or under or about the Project, except to the extent caused or contributed to by Tenant or any Tenant Parties (as defined in Section 13) in which case Tenant shall be solely responsible for its share of the cost thereof;

(w) any increase in insurance premiums to the extent that such increase is caused or attributable to the use, occupancy or act of another tenant;

(x) ground rent payments to a ground lessor and the cost of consummating any ground lease;

(y) the cost of installing, operating and maintaining any commercial concessions operated by Landlord (and not Tenant) in the Building or of installing, operating and maintaining any specialty services such as a Building cafeteria or dining facility, or an athletic luncheon or recreational club, or any theater or garage;

(z) reserves for bad debts and rent loss reserves and reserves for future repairs and replacements and maintenance or repair costs related to the parking structure for the Project;

(aa) the cost of providing any bookkeeping and accounting services customarily provided by a managing agent and the cost of which is customarily included in management fees, except as otherwise provided in this Lease;

(bb) the cost of any separate electrical meter Landlord may provide to any of the other tenants in the Building;

(cc) expenses allocable directly and solely to the retail space in the Building and to the garage in the Building, if any;

(dd) the initial cost of tools and small equipment used in the operation and maintenance of the Building and the Project purchased in connection with the initial construction of the Building;

(ee) the initial cost of any permanent landscaping being installed in connection with the initial construction of the Building;

(ff) the cost of Tenant's Share of any deductible amount (except for flood and/or earthquake deductibles which this clause (ff) shall not apply to) under Landlord's insurance policies to the extent that Tenant's Share exceeds $50,000 per occurrence;

(gg) lease concessions, including rental abatements and construction allowances, granted to specific tenants;

(hh) the cost of repairs or other work to the extent Landlord is actually reimbursed by insurance or condemnation proceeds;

(ii) rentals for equipment ordinarily considered to be of a capital nature (such as elevators and HVAC systems) except if such equipment is reasonably and customarily leased in the operation of first-class laboratory / office buildings in San Francisco or South San Francisco;

(jj) all additions to Building reserves including bad debts and rent loss reserves and reserves for future repairs and replacements and, in addition, costs related to the parking structure for the Project;

(kk) repair costs resulting from the gross negligence or willful misconduct of Landlord or its agents; and

(ll) flood and earthquake insurance deductibles in excess of deductibles that Tenant can demonstrate are in excess of customary deductible amounts carried by institutional owners of comparable Class A laboratory and/or office buildings in San Francisco.

Landlord shall, upon written request from Tenant, promptly notify Tenant of the insurance deductible amounts (as the same may be adjusted from time to time) with respect to the Project.

Notwithstanding the foregoing, Landlord shall obtain Tenant's prior consent, which shall not be unreasonably withheld, conditioned or delayed, for any capital improvement which would materially alter the aesthetic appearance of the Building and result in an aesthetic appearance which is meaningfully inferior to that of other first-class laboratory/office buildings in San Francisco. Tenant shall not have any consent rights with respect to any other capital repairs or improvements. The preceding consent right is intended solely to grant Tenant the right of reasonable approval as to capital improvements which may materially alter the appearance of the Building, and Tenant shall not have the right to attempt to negotiate the portion of the cost for which Tenant shall be responsible. Any disputes between Landlord and Tenant regarding the matters provided for in this paragraph shall be decided by the chief executive officers of Landlord and Tenant, provided that Landlord's or its affiliate's chief executive officer shall make the final decision regarding the dispute. The provisions of this paragraph shall apply as long as Nektar Therapeutics is directly leasing from Landlord the Premises and shall not apply to any assignee or sublessee other than a transferee pursuant to a Permitted Assignment or with respect to any space leased by Tenant pursuant to Section 39 hereof.

Upon Tenant's written request, Landlord shall make available a representative of Landlord on a quarterly basis to meet with a representative of Tenant to discuss any unbudgeted capital repairs, improvements or replacements to the Project then anticipated by Landlord to be incurred during such calendar quarter and the anticipated cost of such capital repairs, improvements and replacements; provided, however, that Landlord shall, subject to the terms of this Lease, make all final decisions regarding any capital repairs, improvements or replacements to the Project.

Any earthquake insurance deductible payable by Tenant to Landlord as part of Operating Expenses under this Lease shall be amortized over 10 years (without interest) and paid by Tenant to Landlord in equal monthly installments until the earlier to occur of 10 years and the expiration or termination of the Term (other than a termination as a result of a Default in which case Tenant shall nonetheless be required to pay the then-unamortized amount (without interest) to Landlord that would have been due for the balance of the Term). For the avoidance of any doubt, if this Lease is terminated pursuant to Section 18 as a result of an earthquake, Tenant shall not be required to pay the earthquake deductible to Landlord in connection with such earthquake.

Tenant shall have the right to pay in full at the time the expense is incurred by Landlord or elect to amortize (without interest) with equal monthly payments Tenant's Share of any (i) flood insurance deductibles over the then remaining number of months in the Term of the Lease and such payments shall be due on the first day of each month and (ii) earthquake deductibles as provided for in the immediately preceding paragraph.

Within 90 days after the end of each calendar year (or such longer period as may be reasonably required but not to exceed 150 days), Landlord shall furnish to Tenant a statement (an "**Annual Statement**") showing in reasonable detail: (a) the total and Tenant's Share of actual Operating Expenses for the previous calendar year, and (b) the total of Tenant's payments in respect of Operating Expenses for such year. If Tenant's Share of actual Operating Expenses for such year exceeds Tenant's payments of Operating Expenses for such year, the excess shall be due and payable by Tenant as Rent within 30 days after delivery of such Annual Statement to Tenant. If Tenant's payments of Operating Expenses for such year exceed Tenant's Share of actual Operating Expenses for such year Landlord shall pay the excess to Tenant within 30 days after delivery of such Annual Statement, except that after the expiration, or earlier termination of the Term or if Tenant is delinquent in its obligation to pay Rent, Landlord shall pay the excess to Tenant after deducting all other amounts due Landlord. Landlord shall have the right to amend the

Annual Statement for any Operating Expenses information which becomes available after the date that Landlord furnishes the Annual Statement to Tenant in which case Landlord shall promptly provide such amended Annual Statement to Tenant. Landlord's and Tenant's obligations to pay any overpayment or deficiencies due pursuant to this paragraph shall survive the expiration or earlier termination of this Lease.

Notwithstanding anything provided for herein with regard to the finality of Operating Expenses, Tenant shall have the right to request an audit of the calculation of the Annual Statement within 120 days of the receipt by Tenant thereof, and Tenant's Operating Expenses shall be reduced by any amount such audit reveals the amount stated in the Annual Statement exceeds the amount determined by the audit, Landlord shall credit the excess amount to the next succeeding installments of estimated Operating Expenses, and if such audit reveals the amount stated in the Annual Statement is less than the amount determined by the audit, Tenant shall pay Landlord such underpayment within 30 days of such audit; provided, however, that if the Term has expired and no amounts are owed by Tenant to Landlord, Landlord shall refund such amount to Tenant in cash within 30 days of Landlord's receipt of the audit results. Should the amount stated in the Annual Statement exceed the amount determined by the audit by 5% or more, then Landlord shall, in addition to the adjustment to the amount of the Tenant's Operating Expenses, pay to the Tenant the reasonable costs associated with the audit. Operating Expenses for the calendar years in which Tenant's obligation to share therein begins and ends shall be prorated. Tenant's audit shall be conducted by a nationally or regionally recognized independent public accounting firm reasonably acceptable to Landlord and Tenant and such firm shall be required by Tenant to work pursuant to a fee arrangement other than a contingent fee. Tenant shall keep the results of the audit confidential (unless required by law to be disclosed or in connection with a dispute between the parties as to Operating Expenses) and not disclose any information regarding the same to any other tenants.

To the extent that any cost or expense is appropriately included in Operating Expenses pursuant hereto, it shall only be included in Operating Expenses once, notwithstanding that such cost or expense may fall under more than one category or be referenced in more than one Section of this Lease. Operating Expenses shall be calculated on the accrual basis of accounting.

"**Tenant's Share**" shall be the percentage set forth in the Basic Lease Provisions above as Tenant's Share as reasonably adjusted by Landlord for changes in the physical size of the Premises, the Building or the Project occurring thereafter.

Since the Project contains a common lobby and a separate east and west wing, the costs of the common lobby shall be split between the east and west wing on a 50/50 basis but because from time to time certain Operating Expenses costs may only benefit one wing or a portion thereof, Landlord may equitably increase Tenant's Share for any item of expense or cost reimbursable by Tenant that relates to a repair, replacement, or service that benefits only the Premises or only a portion of the Project that includes the Premises or that varies with occupancy or use; provided, however, Tenant shall not be responsible for any item of expense or cost reimbursable by any other tenant in the Project for any item of expense or cost reimbursable by such tenant that relates to a repair, replacement, or service that benefits only that tenant's premises or only a portion of the Project that includes that tenant's premises and not any portion of the Premises. Upon request from Tenant, Landlord shall provide information supporting the decision to make any such equitable adjustment. Base Rent, Tenant's Share of Operating Expenses and all other amounts payable by Tenant to Landlord hereunder are collectively referred to herein as "**Rent**."

6. **Security Deposit**. Within five (5) business days prior to the payment of any portion of the TI Allowance, Tenant shall deposit with Landlord a security deposit (the "**Security Deposit**") for the performance of all of Tenant's obligations hereunder in the amount equal to the amount of the TI Allowance disbursement request until the amount of the Security Deposit equals the amount set forth on page 1 of this Lease; provided, however, that (x) notwithstanding the foregoing, Landlord shall have received the full amount of the Security Deposit as set forth on page 1 no later than the Commencement Date and (y) any unapplied cash security deposit then being held by Landlord pursuant to the terms of the Existing Lease (originally in the amount of $82,330.80) shall be refunded to Tenant within thirty (30) days after the Commencement Date. The Security Deposit shall be in the form of an unconditional and irrevocable letter

of credit (the "**Letter of Credit**"): (i) in form and substance satisfactory to Landlord, (ii) naming Landlord as beneficiary, (iii) expressly allowing Landlord to draw upon it at any time from time to time by delivering to the issuer notice that Landlord is entitled to draw thereunder, (iv) issued by an FDIC-insured financial institution reasonably satisfactory to Landlord, and (v) redeemable by presentation of a sight draft in the state of California. If Tenant does not provide Landlord with a substitute Letter of Credit complying with all of the requirements hereof at least 10 days before the stated expiration date of any then current Letter of Credit, Landlord shall have the right to draw the full amount of the current Letter of Credit and hold the funds drawn in cash without obligation for interest thereon as the Security Deposit. The Security Deposit shall be held by Landlord as security for the performance of Tenant's obligations under this Lease. The Security Deposit is not an advance rental deposit or a measure of Landlord's damages in case of Tenant's default. Upon each occurrence of a Default (as defined in Section 20), Landlord may use all or any part of the Security Deposit to pay delinquent payments due under this Lease, future rent damages under California Civil Code Section 1951.2, and the cost of any damage, injury, expense or liability caused by such Default, without prejudice to any other remedy provided herein or provided by law. Landlord's right to use the Security Deposit under this Section 6 includes the right to use the Security Deposit to pay future rent damages following the termination of this Lease pursuant to Section 21(c) below. Upon any use of all or any portion of the Security Deposit, Tenant shall pay Landlord within 10 business days after written demand the amount that will restore the Security Deposit to the amount set forth on Page 1 of this Lease. Tenant hereby waives the provisions of any law, now or hereafter in force, including, without limitation, California Civil Code Section 1950.7, which provide that Landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of Rent, to repair damage caused by Tenant or to clean the Premises, it being agreed that Landlord may, in addition, claim those sums reasonably necessary to compensate Landlord for any other loss or damage, foreseeable or unforeseeable, caused by the act or omission of Tenant or any officer, employee, agent or invitee of Tenant. Upon bankruptcy or other debtor-creditor proceedings against Tenant, the Security Deposit shall be deemed to be applied first to the payment of Rent and other charges due Landlord for periods prior to the filing of such proceedings. Upon any such use of all or any portion of the Security Deposit, Tenant shall, within 10 business days after written demand from Landlord, restore the Security Deposit to its original amount. If Tenant shall fully perform every provision of this Lease to be performed by Tenant, the Security Deposit, or any balance thereof (i.e., after deducting therefrom all amounts to which Landlord is entitled under the provisions of this Lease), shall be returned to Tenant (or, at Landlord's option, to the last assignee of Tenant's interest hereunder) within 90 days after the expiration or earlier termination of this Lease.

If Landlord transfers its interest in the Project or this Lease, Landlord shall either (a) transfer any Security Deposit then held by Landlord to a person or entity assuming Landlord's obligations under this Section 6, or (b) return to Tenant any Security Deposit then held by Landlord and remaining after the deductions permitted herein. Upon such transfer to such transferee or the return of the Security Deposit to Tenant, Landlord shall have no further obligation with respect to the Security Deposit, and Tenant's right to the return of the Security Deposit shall apply solely against Landlord's transferee. The Security Deposit is not an advance rental deposit or a measure of Landlord's damages in case of Tenant's default. Landlord's obligation respecting the Security Deposit is that of a debtor, not a trustee, and no interest shall accrue thereon.

Provided that (i) no Default by Tenant is then outstanding under this Lease and (ii) Tenant maintains a market cap in excess of $2,000,000,000 as of the 5th annual anniversary of the Commencement Date (as measured by the 90-day trading average for the 90-day period preceding such 5th annual anniversary) (the "**Reduction Requirements**"), the Security Deposit shall be reduced by 50% to $917,650.12 (the "**Reduced Security Deposit**"). If Tenant delivers a written request to Landlord for such reduction of the Security Deposit along with evidence reasonably satisfactory to Landlord that the Reduction Requirements have been satisfied, then, so long as all of the Reduction Requirements have been met, Landlord shall cooperate with Tenant, at no cost, expense or liability to Landlord, to reduce the Letter of Credit then held by Landlord to the amount of the Reduced Security Deposit. If the Security Deposit is reduced as provided herein, then from and after the date of such reduction, the "**Security Deposit**" shall be deemed to be the Reduced Security Deposit, for all purposes of this Lease.

7. **Use**. The Premises shall be used solely for the Permitted Use set forth in the Basic Lease Provisions above. Tenant shall comply with all laws, orders, judgments, ordinances, regulations, codes, directives, permits, licenses, covenants and restrictions now or hereafter applicable to the Premises, and to the use and occupancy thereof, including, without limitation, the Americans With Disabilities Act, 42 U.S.C. § 12101, et seq. (together with the regulations promulgated pursuant thereto, "**ADA**") (collectively, "**Legal Requirements**" and each, a "**Legal Requirement**"). Tenant shall promptly discontinue any use of the Premises which is declared by any Governmental Authority (as defined in Section 9) having jurisdiction to be a violation of a Legal Requirement unless Tenant contests such violation (and diligently prosecutes such contest to resolution) in which case Landlord shall not require Tenant to discontinue such use provided that the continuance of such use does not adversely affect the use and occupancy of the Project by any other tenant. Tenant will not use or permit the Premises to be used for any purpose or in any manner (other than as allowed by the Permitted Use) that would void Tenant's or Landlord's insurance, materially increase the insurance risk, or cause the disallowance of any sprinkler or other credits. Tenant shall not permit any part of the Premises to be used as a "place of public accommodation" (other than as allowed by the Permitted Use), as defined in the ADA or any similar legal requirement. Tenant shall reimburse Landlord within 10 business days after written demand for any additional premium charged for any such insurance policy by reason of Tenant's failure to comply with the provisions of this Section or otherwise caused by Tenant's use and/or occupancy of the Premises. Tenant will not commit or permit waste, overload the floor or structure of the Premises, subject the Premises to use that would damage the Premises or unreasonably obstruct or interfere with the rights of Landlord or other tenants or occupants of the Project, including conducting or giving notice of any auction, liquidation, or going out of business sale on the Premises, or using or allowing the Premises to be used for any unlawful purpose. Tenant shall cause any equipment or machinery to be installed in the Premises so as to reasonably prevent sounds or vibrations from the Premises from extending into Common Areas, or other space in the Project. Except to the extent that Tenant has obtained Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, Tenant shall not place any machinery or equipment weighing 500 pounds or more in or upon the Premises or transport or move such items through the Common Areas of the Project or in the Project elevators without the prior written consent of Landlord. Tenant shall not, without the prior written consent of Landlord, use the Premises in any manner which will require ventilation, air exchange, heating, gas, steam, electricity or water beyond the existing capacity of the Project as proportionately allocated to the Premises based upon Tenant's Share as usually furnished for the Permitted Use.

Landlord shall be responsible, at Landlord's expense and not as part of Operating Expenses, for the compliance of the Common Areas of the Building with the ADA as of the Commencement Date for the original Premises. If it is determined following the Commencement Date for the original Premises (e.g. because Alterations or tenant improvements are constructed in any of the Must Take Space) that the Common Areas of the Building were not in compliance with the ADA as of the Commencement Date for the original Premises, Landlord shall be responsible, at Landlord's expense and not as part of Operating Expenses, for the cost of the compliance of the Common Areas of the Building with the ADA as of the Commencement Date for the original Premises. Except as provided for in the preceding two sentences, Tenant, at its sole expense, shall make any alterations or modifications to the interior of the Premises and/or the Common Areas that are required by Legal Requirements (including, without limitation, compliance of the Premises with the ADA) related to Tenant's use or occupancy of the Premises or Alterations made by Tenant. Notwithstanding any other provision herein to the contrary, Tenant shall be responsible for any and all demands, claims, liabilities, losses, costs, expenses, actions, causes of action, damages or judgments, and all reasonable expenses incurred in investigating or resisting the same (including, without limitation, reasonable attorneys' fees, charges and disbursements and costs of suit) (collectively, "**Claims**") arising out of or in connection with the failure of the Premises to comply with Legal Requirements, and Tenant shall indemnify, defend, hold and save Landlord harmless from and against any and all Claims arising out of or in connection with any failure of the Premises to comply with any Legal Requirement.

8. **Holding Over**. If, with Landlord's express written consent, Tenant retains possession of the Premises after the termination of the Term, (i) unless otherwise agreed in such written consent, such possession shall be subject to immediate termination by Landlord at any time, (ii) all of the other terms and provisions of this Lease (including, without limitation, the adjustment of Base Rent pursuant to Section 4

hereof) shall remain in full force and effect (excluding any expansion or renewal option or other similar right or option) during such holdover period, (iii) Tenant shall continue to pay Base Rent in the amount payable upon the date of the expiration or earlier termination of this Lease or such other amount as Landlord may indicate, in Landlord's sole and absolute discretion, in such written consent, and (iv) all other payments shall continue under the terms of this Lease. If Tenant remains in possession of the Premises after the expiration or earlier termination of the Term without the express written consent of Landlord, (A) Tenant shall become a tenant at sufferance upon the terms of this Lease except that (x) during the first 30 days, the monthly rental shall be equal to 125% of Rent in effect during the last 30 days of the Term, (y) during the next 30 days, the monthly rental shall be equal to 150% of Rent in effect during the last 30 days of the Term, and (z) thereafter, the monthly rental shall be equal to 175% of Rent in effect during the last 30 days of the Term, and (B) in addition, if Tenant holds over for more than 60 days, Tenant shall be responsible for all damages suffered by Landlord resulting from or occasioned by Tenant's holding over, including consequential damages; provided, however, that if Tenant delivers a written inquiry to Landlord within 30 days prior to the expiration or earlier termination of the Term, Landlord will notify Tenant whether the potential exists for consequential damages. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Lease except as otherwise expressly provided, and this Section 8 shall not be construed as consent for Tenant to retain possession of the Premises. Acceptance by Landlord of Rent after the expiration of the Term or earlier termination of this Lease shall not result in a renewal or reinstatement of this Lease.

9. **Taxes**. Landlord shall pay, as part of Operating Expenses, all taxes, levies, fees, community facilities district fees and/or bonds, assessments and governmental charges of any kind, existing as of the Commencement Date or thereafter enacted (collectively referred to as "**Taxes**") imposed by any federal, state, regional, municipal, local or other governmental authority or agency, including, without limitation, quasi-public agencies (collectively, "**Governmental Authority**") during the Term, including, without limitation, all Taxes: (i) imposed on or measured by or based, in whole or in part, on rent payable to (or gross receipts received by) Landlord under this Lease and/or from the rental by Landlord of the Project or any portion thereof, or (ii) based on the square footage, assessed value or other measure or evaluation of any kind of the Premises or the Project, or (iii) assessed or imposed by or on the operation or maintenance of any portion of the Premises or the Project, including parking, or (iv) assessed or imposed by, or at the direction of, or resulting from Legal Requirements or interpretations thereof, promulgated by, any Governmental Authority, or (v) imposed as a license or other fee, charge, tax, or assessment on Landlord's business or occupation of leasing space in the Project. Landlord may contest by appropriate legal proceedings the amount, validity, or application of any Taxes or liens securing Taxes. Taxes shall not include any net income taxes imposed on Landlord except to the extent such net income taxes are in substitution for any Taxes payable hereunder. If any such Tax is levied or assessed directly against Tenant, then Tenant shall be responsible for and shall pay the same at such times and in such manner as the taxing authority shall require. Tenant shall pay, prior to delinquency, any and all Taxes levied or assessed against any personal property or trade fixtures placed by Tenant in the Premises, whether levied or assessed against Landlord or Tenant. If any Taxes on Tenant's personal property or trade fixtures are levied against Landlord or Landlord's property, or if the assessed valuation of the Project is increased by a value attributable to improvements in or alterations to the Premises, whether owned by Landlord or Tenant and whether or not affixed to the real property so as to become a part thereof, higher than the base valuation on which Landlord from time-to-time allocates Taxes to all tenants in the Project, Landlord shall have the right, but not the obligation, to pay such Taxes. Landlord's reasonable determination of any excess assessed valuation shall be binding and conclusive, absent manifest error. The amount of any such payment by Landlord shall constitute Additional Rent due from Tenant to Landlord within 10 business days after written demand therefor.

Unless Landlord elects to contest any Taxes, Tenant may, upon prior written notice to Landlord contest Taxes against the Project and attempt to obtain a reduction in the assessed valuation of the Project for the purpose of reducing any such tax assessment. Upon the request of Tenant, but without expense or liability to Landlord (and at Tenant's sole cost and expense), Landlord shall reasonably cooperate with Tenant in connection with the tax reduction proceeding. Tenant may not enter into any agreement with the taxing authorities which would be binding on Landlord or the Project without Landlord's prior written consent

which shall not be unreasonably withheld or delayed. If a tax reduction is obtained, there shall be a subsequent reduction in Tenant's Taxes for such year, and any excess payments paid by Tenant to Landlord (if any) shall be refunded by Landlord when all refunds to which Landlord is entitled from the taxing authority with respect to such year have been received by Landlord.

10. **Parking**. Subject to all matters of record, Force Majeure, a Taking (as defined in Section 19 below) and the exercise by Landlord of its rights hereunder, Tenant shall, during the Term, lease 1.4 parking spaces per 1,000 rentable square feet of the Premises ("**Tenant's Pro Rata Share**") which parking spaces shall be in those areas designated by Landlord for non-reserved parking in the parking structure located at 450 South Street, San Francisco, California, which shall be considered part of the Project, subject in each case to Landlord's rules and regulations; provided, however, that Landlord acknowledges that Tenant is entitled to have 10 of Tenant's Pro Rata Share of parking spaces be reserved parking spaces in the locations shown on the parking diagram attached hereto as Exhibit N. Tenant shall pay for Tenant's Pro Rata Share of parking spaces an amount equal to $391.00 per month for each such parking space, subject to adjustment as provided for herein. Commencing on February 1, 2021, and on each anniversary thereafter (each, a "**Parking Charge Adjustment Date**"), the parking charges provided for in the preceding sentence ("**Parking Charges**") shall be increased by multiplying the Parking Charges payable immediately before such Parking Charge Adjustment Date by 3%. Landlord may allocate parking spaces among Tenant and other tenants in the Project pro rata as described above if Landlord determines that such parking facilities are becoming crowded. Notwithstanding anything to the contrary contained herein, if Tenant notifies Landlord in writing that any of the spaces allocated to Tenant pursuant to this Section 10 are not available for Tenant's use (each, an "**Unavailable Space**" and collectively "**Unavailable Spaces**") and such Unavailable Spaces continue to be unavailable for Tenant's use for a period of 2 business days following Tenant's delivery of such notice to Landlord, then the Parking Charges for each Unavailable Space remaining unavailable for Tenant's use shall be abated for the period commencing on the date that Landlord receives Tenant's notice regarding the Unavailable Spaces through the date that such Unavailable Space become available for Tenant's use.

Notwithstanding the foregoing, Tenant shall have the right to elect to lease less than Tenant's Pro Rata Share of parking spaces; provided however, that in no event shall Tenant elect to lease less than 126 spaces. On the Commencement Date, Tenant shall be deemed to have elected to use the aggregate number of parking spaces that Tenant was leasing immediately prior to the Commencement Date under the Pfizer Sublease and Existing Lease Agreement; provided, however, that if Tenant was leasing fewer parking spaces at such time than the minimum number of parking spaces required pursuant to the immediately preceding sentence, Tenant shall be deemed to have elected as of the Commencement Date to use the minimum number of parking spaces required pursuant to the immediately preceding sentence. Any of Tenant's Pro Rata Share of parking spaces that Tenant has elected not to use pursuant to this paragraph shall be referred to herein as "**Rejected Spaces**." Landlord shall have no obligation to maintain any Rejected Spaces available for Tenant's future use and Tenant acknowledges and agrees that Landlord may, at any time during the Term, enter into parking licenses and agreements pursuant to which Landlord licenses or leases such Rejected Spaces to third parties.

If, during the Term, Tenant is leasing fewer than Tenant's Pro Rata Share of parking spaces and Tenant desires to lease additional parking spaces ("**Additional Spaces**") from Landlord (up to Tenant's Pro Rate Share), Tenant shall deliver written notice ("**Tenant's Notice**") to Landlord specifying the number of Additional Spaces desired by Tenant. If Landlord determines that any Additional Spaces are available for use by Tenant, Landlord shall notify Tenant in writing and Tenant shall commence leasing and paying for such Additional Spaces upon Landlord's delivery of written notice to Tenant that such Additional Spaces are available for use by Tenant. Tenant acknowledges and agrees that Landlord shall have no obligation to terminate any parking licenses or other agreements that Landlord has entered into in order to provide Tenant with Additional Spaces.

Notwithstanding the foregoing, the provisions of the 2 immediately preceding paragraphs shall be applicable only with respect to the West Wing Portion and East Wing Portion of the Premises and shall not apply with respect to any space leased pursuant to Sections 39 or 40. In connection with any space leased

by Tenant pursuant to Sections 39 or 40, Landlord shall, subject to Tenant's payment of the Parking Charges, provide Tenant with 1.4 parking spaces per 1,000 rentable square feet of space leased pursuant to Sections 39 and 40, and Landlord and Tenant shall reasonably collaborate to determine the manner in which Tenant's additional parking needs shall be addressed, which may include, but not be limited to, the implementation by Landlord of valet parking services. Any costs incurred in connection with accommodating such additional parking needs (including, without limitation the cost of valet parking services) shall be included in Operating Expenses.

Tenant shall comply with the requirements and participate in the Transportation Management Association ("**TMA**") that was formed to implement and administer the Transportation System Management Plan ("**TSMP**") for Mission Bay and comply with the requirements set forth in **Exhibit G** attached hereto setting forth certain requirements relating to parking and transportation demand management which are binding on all tenants in the Project. Tenant acknowledges that Operating Expenses shall include expenses and assessments related to the TMA and TSMP.

11. **Utilities, Services**. During the Term, Landlord shall provide, subject to the terms of this Section 11, hot and cold water, electricity, heat, ventilation reasonably necessary for the research laboratory use, and air-conditioning, light, power, telephone, sewer, Building security (excluding the Premises), elevator service and other utilities (including gas and fire sprinklers to the extent the Project is plumbed for such services), refuse and trash collection and janitorial services (collectively, "**Utilities**"); provided, however, that Tenant shall be permitted to enter into a direct contract with a janitorial vendor (such vendor to be subject to Landlord's reasonable prior approval), and in such event the cost of providing janitorial services to the Premises shall be excluded from Operating Expenses. Landlord shall pay, as Operating Expenses or subject to Tenant's reimbursement obligation, for all Utilities used on the Premises, all maintenance charges for Utilities, and any storm sewer charges or other similar charges for Utilities imposed by any Governmental Authority or Utility provider, and any taxes, penalties, surcharges or similar charges thereon. Tenant may cause, at Tenant's expense, any Utilities to be separately metered or charged directly to Tenant by the provider and the expense of such Utilities shall be excluded from Operating Expenses. Tenant shall pay directly to the Utility provider, prior to delinquency, any separately metered Utilities and services which may be furnished to Tenant or the Premises during the Term. Tenant shall pay, as part of Operating Expenses, its share of all charges for jointly metered Utilities based upon consumption, as reasonably determined by Landlord. No interruption or failure of Utilities, from any cause whatsoever other than Landlord's willful misconduct, shall result in eviction or constructive eviction of Tenant or termination of this Lease. Tenant agrees to limit use of water and sewer with respect to Common Areas to normal restroom use. Notwithstanding the foregoing, Tenant shall be solely responsible for determining whether the Utilities to be provided by Landlord are adequate for Tenant's specific use of the Premises. Tenant shall have the right, upon not less than 30 days written notice to Landlord, to elect to contract directly with any provider of any Utility which is separately metered to the Premises.

If (i) a stoppage of an Essential Service (as defined below) to the Premises shall occur and such stoppage is due solely to the negligent acts or omissions of Landlord and not due in any part to any act or omission on the part of Tenant or any Tenant Party or any matter beyond Landlord's reasonable control (any such stoppage of an Essential Service being hereinafter referred to as a "**Service Interruption**"), and (ii) such Service Interruption continues for more than 3 consecutive business days after Landlord shall have received written notice thereof from Tenant, and (iii) as a result of such Service Interruption, the conduct of Tenant's normal operations in the Premises are materially and adversely affected, then there shall be an abatement of one day's Base Rent for each day during which such Service Interruption continues after such 3 business day period; provided, however, that if any part of the Premises is reasonably useable for Tenant's normal business operations or if Tenant conducts all or any part of its operations in any portion of the Premises notwithstanding such Service Interruption, then the amount of each daily abatement of Base Rent shall only be proportionate to the nature and extent of the interruption of Tenant's normal operations or ability to use the Premises. The rights granted to Tenant under this paragraph shall be Tenant's sole and exclusive remedy resulting from a failure of Landlord to provide services, and Landlord shall not otherwise be liable for any loss or damage suffered or sustained by Tenant resulting from any failure or cessation of services. For purposes hereof, the term "**Essential Services**" shall mean the following

services: access to the Premises, HVAC service, water, sewer and electricity, but in each case only to the extent that Landlord has an obligation to provide same to Tenant under this Lease.

Tenant shall have the self-help rights provided for in Section 31 of this Lease.

Landlord's sole obligation for either providing emergency generators or providing emergency back-up power to Tenant shall be: (i) to provide emergency generators with not less than the capacity of the emergency generators installed and paid for by Landlord as part of the initial construction of the Building, and (ii) to contract with a third party to maintain the emergency generators as per the manufacturer's standard maintenance guidelines. Landlord shall be responsible for obtaining and maintaining all permits for any such emergency generators. Notwithstanding anything to the contrary contained herein, Landlord shall, at least on a quarterly basis as part of the maintenance of the Building, run the emergency generator for a period reasonably determined by Landlord for the purpose of determining whether it operates when started. Landlord shall, upon written request from Tenant, make available the maintenance contract and maintenance records for the emergency generators for the 12 month period immediately preceding Landlord's receipt of Tenant's written request. Landlord shall have no obligation to supervise, oversee or confirm that the third party maintaining the emergency generators is maintaining the generators as per the manufacturer's standard guidelines or otherwise. During any period of replacement, repair or maintenance of the emergency generators or any other periods when the emergency generators are not operational, including any delays thereto due to the inability to obtain parts or replacement equipment, Landlord shall have no obligation to provide Tenant with an alternative back-up generator or generators or alternative sources of back-up power; provided, however, that Landlord shall use commercially reasonable efforts to minimize the "down time" of such emergency generators during any replacement, repair or maintenance. If any future Landlord (following the current Landlord as of the date of this Lease) repeatedly fails to maintain the emergency generator as required under this Lease, Tenant shall have the right to install its own emergency generator as an Alteration pursuant to Section 12 provided that a suitable location at the Building reasonably acceptable to the then Landlord can be found for such emergency generator.

12. **Alterations and Tenant's Property**. Any alterations, additions, or improvements made to the Premises by or on behalf of Tenant, including additional locks or bolts of any kind or nature upon any doors or windows in the Premises, but excluding installation, removal or realignment of furniture systems (other than removal of furniture systems owned or paid for by Landlord) not involving any modifications to the structure or connections (other than by ordinary plugs or jacks) to Building Systems (as defined in Section 13) ("**Alterations**") shall be subject to Landlord's prior written consent, which may be given or withheld in Landlord's sole discretion if any such Alteration affects the structure or Building Systems but shall otherwise not be unreasonably withheld, conditioned or delayed. Tenant may construct nonstructural Alterations in the Premises without Landlord's prior approval if the aggregate cost of all such work in any 12 month period does not exceed $300,000 (a "**Notice-Only Alteration**"), provided Tenant notifies Landlord in writing of such intended Notice-Only Alteration, and such notice shall be accompanied by plans, specifications, work contracts and such other information concerning the nature and cost of the Notice-Only Alteration as may be reasonably requested by Landlord, which notice and accompanying materials shall be delivered to Landlord not less than 15 business days in advance of any proposed construction. If Landlord approves any Alterations, Landlord may impose such conditions on Tenant in connection with the commencement, performance and completion of such Alterations as Landlord may deem appropriate in Landlord's reasonable discretion. Any request for approval shall be in writing, delivered not less than 15 business days in advance of any proposed construction, and accompanied by plans, specifications, bid proposals, work contracts and such other information concerning the nature and cost of the alterations as may be reasonably requested by Landlord, including the identities and mailing addresses of all persons performing work or supplying materials. Landlord's right to review plans and specifications and to monitor construction shall be solely for its own benefit, and Landlord shall have no duty to ensure that such plans and specifications or construction comply with applicable Legal Requirements. Tenant shall cause, at its sole cost and expense, all Alterations to comply with insurance requirements and with Legal Requirements and shall implement at its sole cost and expense any alteration or modification required by Legal Requirements as a result of any Alterations. Tenant shall pay to Landlord, as Additional Rent, within 30 days after written demand therefor an amount equal to 1% of all Hard Costs incurred by Tenant or its

contractors or agents in connection with any Alteration to cover Landlord's overhead and expenses for plan review, coordination, scheduling and supervision. Before Tenant begins any Alteration, Landlord may post on and about the Premises notices of non-responsibility pursuant to applicable law. Tenant shall reimburse Landlord for, and indemnify and hold Landlord harmless from, any expense incurred by Landlord by reason of faulty work done by Tenant or its contractors or inadequate cleanup. As used herein, "**Hard Costs**" shall mean all construction costs excluding soft costs (e.g., architectural, consulting, engineering and legal fees), furniture and equipment acquired for use in the Premises, and Landlord's 1% administrative fee.

Tenant shall furnish security or make other arrangements reasonably satisfactory to Landlord to assure payment for the completion of all Alterations work free and clear of liens, and shall provide (and cause each contractor or subcontractor to provide) certificates of insurance for workers' compensation and other coverage in amounts and from an insurance company satisfactory to Landlord protecting Landlord against liability for personal injury or property damage during construction. Upon completion of any Alterations, Tenant shall deliver to Landlord: (i) sworn statements setting forth the names of all contractors and subcontractors who did the work and final lien waivers from all such contractors and subcontractors; and (ii) "as built" plans for any such Alteration.

Except for Removable Installations (as hereinafter defined), all Installations (as hereinafter defined) shall be and shall remain the property of Landlord during the Term and following the expiration or earlier termination of the Term, shall not be removed by Tenant at any time during the Term (except to the extent that such Installations are replaced with Alterations pursuant to this Section 12 which do not materially lessen the value of those improvements existing in the Premises prior to such removal), and shall remain upon and be surrendered with the Premises as a part thereof. Notwithstanding the foregoing, Landlord shall, if requested in writing by Tenant to do so at the time its approval of any such Installation is requested, notify Tenant whether Landlord requires that Tenant remove such Installation upon the expiration or earlier termination of the Term, in which event, upon the expiration or earlier termination of this Lease, Tenant shall remove such Installation in accordance with the immediately succeeding sentence. Upon the expiration or earlier termination of the Term, Tenant shall remove (i) all wires, cables or similar equipment which Tenant has installed in the Premises or in the risers or plenums of the Building, (ii) any Installations for which Landlord has given Tenant notice of removal in accordance with the immediately preceding sentence, and (iii) all of Tenant's Property (as hereinafter defined), and Tenant shall restore and repair any damage caused by or occasioned as a result of such removal, including, without limitation, capping off all such connections behind the walls of the Premises and repairing any holes. During any restoration period beyond the expiration or earlier termination of the Term, Tenant shall pay Rent to Landlord as provided herein as if said space were otherwise occupied by Tenant. If Landlord is requested by Tenant or any lender, lessor or other person or entity claiming an interest in any of Tenant' Property to waive any lien Landlord may have against any of Tenant's Property, and Landlord consents to such waiver, then Landlord shall be entitled to be paid as administrative rent a fee of $1,000 per occurrence for its time and effort in preparing and negotiating such a waiver of lien.

For purposes of this Lease, (x) "**Removable Installations**" means any items listed on **Exhibit F** attached hereto and any items agreed by Landlord in writing to be included on **Exhibit F** in the future, (y) "**Tenant's Property**" means Removable Installations and, other than Installations, any personal property or equipment of Tenant that may be removed without material damage to the Premises, and (z) "**Installations**" means all property of any kind existing as of the Commencement Date, all property of any kind paid for by Landlord, all Alterations, all fixtures, and all partitions, hardware, built-in machinery, built-in casework and cabinets and other similar additions, equipment, property and improvements built into the Premises so as to become an integral part of the Premises, including, without limitation, fume hoods which penetrate the roof or plenum area, built-in cold rooms, built-in warm rooms, walk-in cold rooms, walk-in warm rooms, deionized water systems, glass washing equipment, autoclaves, chillers, built-in plumbing, electrical and mechanical equipment and systems, and any power generator and transfer switch. Landlord and Tenant acknowledge that scientific equipment (such as NMR, Mass-Specs, vented and non-vented biosafety cabinets and vented and non-vented engineered containment enclosures) owned by Tenant (and not paid for by Landlord) which for seismic safety reasons has become anchored within the Premises may be removed by Tenant provided that Tenant repairs all damage in connection with such removal.

Notwithstanding anything to the contrary contained herein, Tenant shall not be required to remove the Tenant Improvements constructed pursuant to the Work Letter at the expiration or earlier termination of the Term so long as such Tenant Improvements are, in Landlord's reasonable discretion, typical for life science discovery use and do not materially lessen the value of the improvements existing in the Premises as of the date of this Lease. Moreover, Tenant shall not be required to remove nor shall Tenant remove the improvements (including any Installations) constructed pursuant to the Pfizer Sublease or the Existing Lease Agreement at or before the expiration or earlier termination of the Term. For the avoidance of any doubt, in no event may Tenant's Alterations or Tenant Improvements materially lessen the value of the improvements then existing in the Premises.

13. **Landlord's Repairs**. Landlord, as an Operating Expense to the extent permitted pursuant to Section 5 above, shall maintain and repair all of the structural, exterior, parking and other Common Areas of the Project, including HVAC, plumbing, fire sprinklers, elevators and all other building systems serving the Premises and other portions of the Project ("**Building Systems**"), in good repair, reasonable wear and tear and uninsured losses and damages caused by Tenant, or by any of Tenant's assignees, sublessees, licensees, agents, servants, employees, invitees and contractors (or any of Tenant's assignees, sublessees and/or licensees respective agents, servants, employees, invitees and contractors) (collectively, "**Tenant Parties**") excluded. Losses and damages caused by Tenant or any Tenant Party shall be repaired by Landlord, to the extent not covered by insurance, at Tenant's sole cost and expense. Landlord reserves the right to stop Building Systems services when necessary (i) by reason of accident or emergency (subject to the abatement provisions set forth in Section 11 above), or (ii) for planned repairs, alterations or improvements, which are, in the judgment of Landlord, desirable or necessary to be made, until said repairs, alterations or improvements shall have been completed. Landlord shall have no responsibility or liability for failure to supply Building Systems services during any such period of interruption; provided, however, that Landlord shall, except in case of emergency, make a commercially reasonable effort to give Tenant 24 hours advance notice of any planned stoppage of Building Systems services for routine maintenance, repairs, alterations or improvements and Landlord shall use commercially reasonable efforts to minimize interference with Tenant's business operations at the Premises. Tenant shall promptly give Landlord written notice of any repair required by Landlord pursuant to this Section, after which Landlord shall make a commercially reasonable effort to effect such repair. Landlord shall not be liable for any failure to make any repairs or to perform any maintenance unless such failure shall persist for an unreasonable time after Tenant's written notice of the need for such repairs or maintenance. Tenant waives its rights under any state or local law to terminate this Lease or to make such repairs at Landlord's expense and agrees that the parties' respective rights with respect to such matters shall be solely as set forth herein. Repairs required as the result of fire, earthquake, flood, vandalism, war, or similar cause of damage or destruction shall be controlled by Section 18. Notwithstanding the foregoing, Tenant shall have the self-help rights provided for in Section 31 of this Lease.

Notwithstanding the foregoing, Tenant shall have the right to elect, upon not less than 60 days written notice to Landlord, to maintain, at Tenant's sole cost and expense, (i) any of the Building Systems which serve solely and exclusively the West Wing Portion of the Building and (ii) following Tenant's leasing of the entirety of the East Wing Portion of the Building, any of the Building Systems which serve solely and exclusively the East Wing Portion of the Building; provided, however, that in all events Landlord shall maintain the life/safety systems serving the Building. If Tenant so elects to maintain such Building Systems and performs and pays for all required maintenance, all costs related to maintaining such Building Systems shall be excluded from Operating Expenses. The maintenance obligation described in the preceding sentence shall include, without limitation, an obligation on the part of Tenant to maintain the applicable Building Systems in good condition and repair which shall include the procurement and maintenance of contracts, in form and substance reasonably satisfactory to Landlord, with copies to Landlord, for, and with contractors specializing and experienced in the maintenance and repair of such Building Systems that Tenant is responsible for under this Lease. If Tenant fails to maintain such Building Systems in a manner reasonably acceptable to Landlord, Landlord shall have the right to provide Tenant with written notice thereof and to resume Landlord's maintenance of such Building Systems if Tenant does not cure Tenant's failure within 10 days after receipt of such notice.

14. **Tenant's Repairs**. Subject to Section 13 hereof, Tenant, at its expense, shall repair, replace and maintain in good condition all portions of the Premises, including, without limitation, entries, doors, ceilings, interior windows, interior walls, and the interior side of demising walls. Tenant shall have no obligation to make any structural repairs or to repair or maintain anything that Landlord is obligated hereunder to repair and maintain. Should Tenant fail to make any such repair or replacement or fail to maintain the Premises, Landlord shall give Tenant notice of such failure. If Tenant fails to commence cure of such failure within 10 days of Landlord's notice, and thereafter diligently prosecute such cure to completion, Landlord may perform such work and shall be reimbursed by Tenant within 10 business days after written demand therefor; provided, however, that if such failure by Tenant creates or could create an emergency, Landlord may immediately commence cure of such failure and shall thereafter be entitled to recover the costs of such cure from Tenant. Subject to Sections 17 and 18, Tenant shall bear the full uninsured cost of any repair or replacement to any part of the Project that results from damage caused by Tenant or any Tenant Party and any repair that benefits only the Premises.

15. **Mechanic's Liens**. Tenant shall discharge, by bond or otherwise, any mechanic's lien filed against the Premises or against the Project for work claimed to have been done for, or materials claimed to have been furnished to, Tenant within 30 days after notice to Tenant of the filing thereof, at Tenant's sole cost and shall otherwise keep the Premises and the Project free from any liens arising out of work performed, materials furnished or obligations incurred by Tenant. Should Tenant fail to discharge any lien described herein, Landlord shall have the right, but not the obligation, to pay such claim or post a bond or otherwise provide security to eliminate the lien as a claim against title to the Project and the cost thereof shall be due from Tenant as Additional Rent within 10 business days after written demand therefor. If Tenant shall lease or finance the acquisition of office equipment, furnishings, or other personal property of a removable nature utilized by Tenant in the operation of Tenant's business, Tenant warrants that any Uniform Commercial Code Financing Statement filed as a matter of public record by any lessor or creditor of Tenant will upon its face or by exhibit thereto indicate that such Financing Statement is applicable only to removable personal property of Tenant located within the Premises. In no event shall the address of the Project be furnished on the statement without qualifying language as to applicability of the lien only to removable personal property, located in an identified suite leased by Tenant.

16. **Indemnification**. Tenant hereby indemnifies and agrees to defend, save and hold Landlord, its officers, directors, employees, managers, agents, sub-agents, constituent entities and lease signatories (collectively, "**Landlord Indemnified Parties**") harmless from and against any and all Claims for injury or death to persons or damage to property occurring within or about the Premises, arising directly or indirectly out of its use or occupancy of the Premises or a breach or default by Tenant in the performance of any of its obligations hereunder, except to the extent caused by or contributed to by the negligence, willful misconduct or gross negligence of Landlord Indemnified Parties. Landlord Indemnified Parties shall not be liable to Tenant for, and Tenant assumes all risk of damage to, personal property (including, without limitation, loss of records kept within the Premises). Landlord Indemnified Parties shall not be liable for any damages arising from any act, omission or neglect of any tenant in the Project or of any other third party.

Landlord hereby indemnifies and agrees to defend, save and hold Tenant, its officers, directors, employees, managers, agents, sub-agents, constituent entities and lease signatories (collectively, "**Tenant Indemnified Parties**") harmless from and against any and all Claims for injury or death to persons or damage to property occurring at the Project to the extent caused by or contributed to by the willful misconduct or gross negligence of Landlord or by any of Landlord's employees or agents.

17. **Insurance**. Landlord shall maintain all risk property and, if applicable, sprinkler damage insurance covering the full replacement cost of the Project or such lesser coverage amount as Landlord may elect provided such coverage amount is not less than 90% of such full replacement cost. Landlord shall further procure and maintain commercial general liability insurance with a single loss limit of not less than $2,000,000 for bodily injury and property damage with respect to the Project. Landlord may, but is not obligated to, maintain such other insurance and additional coverages as it may deem necessary, including, but not limited to, flood, environmental hazard and earthquake, loss or failure of building equipment, errors and omissions, rental loss during the period of repair or rebuilding, workers' compensation insurance and

fidelity bonds for employees employed to perform services and insurance for any improvements installed by Tenant or which are in addition to the standard improvements customarily furnished by Landlord without regard to whether or not such are made a part of the Project. All such insurance shall be included as part of the Operating Expenses. The Project may be included in a blanket policy (in which case the cost of such insurance allocable to the Project will be determined by Landlord based upon the insurer's cost calculations). Tenant shall also reimburse Landlord for any increased premiums or additional insurance which Landlord reasonably deems necessary as a result of Tenant's use of the Premises.

Tenant, at its sole cost and expense, shall maintain during the Term: all risk property insurance with business interruption and extra expense coverage, covering the full replacement cost of all property and improvements installed or placed in the Premises by Tenant at Tenant's expense; workers' compensation insurance with no less than the minimum limits required by law; employer's liability insurance with such limits as required by law; and commercial general liability insurance, with a minimum limit of not less than $5,000,000 per occurrence for bodily injury and property damage with respect to the Premises. The commercial general liability insurance maintained by Tenant shall name Alexandria Real Estate Equities, Inc., and Landlord, its officers, directors, employees, managers, agents, sub-agents, constituent entities, lease signatories, invitees and contractors (collectively, "**Landlord Insured Parties**"), as additional insureds; insure on an occurrence and not a claims-made basis; be issued by insurance companies which have a rating of not less than policyholder rating of A- and financial category rating of at least Class VII in "Best's Insurance Guide"; the insurer agrees to endeavor to provide 30 days prior written notice to Landlord of cancellation (but 10 days in the case of cancellation for nonpayment of premium); contain a hostile fire endorsement and a contractual liability endorsement; and provide primary coverage to Landlord Insured Parties (any policy issued to Landlord Insured Parties providing duplicate or similar coverage shall be deemed excess over Tenant's policies, regardless of limits). Copies of such policies (if requested by Landlord's lender), or certificates of insurance showing the limits of coverage required hereunder and showing the Landlord Insured Parties as additional insureds, shall be delivered to Landlord by Tenant upon commencement of the Term and upon each renewal of said insurance. Tenant's policy may be a "blanket policy" with an aggregate per location endorsement which specifically provides that the amount of insurance shall not be prejudiced by other losses covered by the policy. Tenant shall, prior to the expiration of such policies, furnish Landlord with renewal certificates or with other written evidence that such policies have been renewed with delivery of renewal certificates to Landlord within 5 days after such renewal.

In each instance where insurance is to name Landlord Insured Parties as an additional insured, Tenant shall upon written request of Landlord also designate and furnish certificates so evidencing Landlord Insured Parties as additional insured to: (i) any lender of Landlord holding a security interest in the Project or any portion thereof, (ii) the landlord under any lease wherein Landlord is tenant of the real property on which the Project is located, if the interest of Landlord is or shall become that of a tenant under a ground or other underlying lease rather than that of a fee owner, and/or (iii) any management company retained by Landlord to manage the Project.

During the Term, the property insurance obtained by Landlord and Tenant shall include a waiver of subrogation by the insurers and all rights based upon an assignment from its insured, against Landlord or Tenant, and their respective officers, directors, employees, managers, agents, sub-agents, constituent entities, lease signatories, invitees and contractors ("**Related Parties**"), in connection with any loss or damage thereby insured against. Neither party nor its respective Related Parties shall be liable to the other for loss or damage caused by any risk insured against under property insurance required to be maintained hereunder, and each party waives any claims against the other party, and its respective Related Parties, for such loss or damage. The failure of a party to insure its property shall not void this waiver. Landlord and its respective Related Parties shall not be liable for, and Tenant hereby waives all claims against such parties for, business interruption and losses occasioned thereby sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in or upon the Premises or the Project from any cause whatsoever. If the foregoing waivers shall contravene any law with respect to exculpatory agreements, the liability of Landlord or Tenant shall be deemed not released but shall be secondary to the other's insurer.

Landlord may require insurance policy limits to be raised to conform with requirements of Landlord's lender and/or to bring coverage limits to levels then being generally required of new tenants within the Project; provided, however, that the increased amount of coverage is consistent with coverage amounts then being required by institutional owners of similar projects with tenants occupying similar size premises in the geographical area in which the Project is located.

18. **Restoration**. If, at any time during the Term, the Project or the Premises are damaged or destroyed by a fire or other insured casualty, Landlord shall notify Tenant within 60 days after discovery of such damage as to the amount of time Landlord reasonably estimates it will take to restore the Project or the Premises, as applicable (the "**Restoration Period**"). If the Restoration Period is estimated to exceed 12 months (the "**Maximum Restoration Period**"), Landlord may, in such notice, elect to terminate this Lease as of the date that is 75 days after the date of discovery of such damage or destruction; provided, however, that notwithstanding Landlord's election to restore, Tenant may elect to terminate this Lease by written notice to Landlord delivered within 10 business days after receipt of a notice from Landlord estimating a Restoration Period for the Premises longer than 12 months after the discovery of damage from such fire or other casualty. Unless Landlord or Tenant so elect to terminate this Lease, Landlord shall, subject to receipt of sufficient insurance proceeds (with any deductible to be treated as an Operating Expense to the extent permitted pursuant to Section 5 above), promptly restore the Premises (excluding the improvements installed by Tenant or by Landlord and paid for by Tenant), subject to delays arising from the collection of insurance proceeds, from Force Majeure events or as reasonably needed to obtain any license, clearance or other authorization of any kind required to enter into and restore the Premises issued by any Governmental Authority having jurisdiction over the use, storage, handling, treatment, generation, release, disposal, removal or remediation of Hazardous Materials (as defined in Section 30) in, on or about the Premises (collectively referred to herein as "**Hazardous Materials Clearances**"); provided, however, that if repair or restoration of the Premises is not substantially complete as of the end of the Maximum Restoration Period or, if longer, the Restoration Period, Landlord may, in its sole and absolute discretion, elect not to proceed with such repair and restoration, or Tenant may by written notice to Landlord delivered within 5 business days of the expiration of the Maximum Restoration Period or, if longer, the Restoration Period, elect to terminate this Lease, in which event Landlord shall be relieved of its obligation to make such repairs or restoration and this Lease shall terminate as of the date that that is the later of: (i) 75 days after the date of the discovery of such damage or destruction, or (ii) the date all required Hazardous Materials Clearances are obtained but in no event shall the Lease continue under this clause (ii) for more than 180 days after the discovery of such damage or destruction. Nothing contained herein including, without limitation, the termination of this Lease shall relieve Tenant of its obligation to obtain the release of any Hazardous Materials Clearances applicable to the Premises as promptly as reasonably possible after any such damage or destruction.

Notwithstanding the foregoing, either Landlord or Tenant may terminate this Lease upon written notice to the other if the Premises are damaged during the last year of the Term and Landlord reasonably estimates that it will take more than 2 months to repair such damage; provided, however, that such notice is delivered within 10 business days after the date that Landlord provides Tenant with written notice of the estimated Restoration Period. Landlord shall also have the right to terminate this Lease if insurance proceeds are not available for such restoration. Rent shall be abated from the date all required Hazardous Material Clearances, if any, with respect to the Premises are obtained until the Premises are repaired and restored, in the proportion which the area of the Premises, if any, which is not usable by Tenant bears to the total area of the Premises. Such abatement shall be the sole remedy of Tenant, and except as provided in this Section 18, Tenant waives any right to terminate the Lease by reason of damage or casualty loss.

The provisions of this Lease, including this Section 18, constitute an express agreement between Landlord and Tenant with respect to any and all damage to, or destruction of, all or any part of the Premises, or any other portion of the Project, and any statute or regulation which is now or may hereafter be in effect shall have no application to this Lease or any damage or destruction to all or any part of the Premises or any other portion of the Project, the parties hereto expressly agreeing that this Section 18 sets forth their entire understanding and agreement with respect to such matters.

19. **Condemnation**. If the whole or any material part of the Premises or the Project is taken for any public or quasi-public use under governmental law, ordinance, or regulation, or by right of eminent domain, or by private purchase in lieu thereof (a "**Taking**" or "**Taken**"), and the Taking (i) would in Landlord's reasonable judgment, either prevent or materially interfere with Tenant's use of the Premises or materially interfere with or impair Landlord's ownership or operation of the Project or (ii) would in Landlord's reasonable judgment, after consultation with Tenant (as resolved, if the parties are unable to agree, by arbitration by a single arbitrator with the qualifications and experience appropriate to resolve the matter and appointed pursuant to and acting in accordance with the rules of the American Arbitration Association), materially interfere with or impair Tenant's use of the Premises, then upon written notice by Landlord or Tenant, as applicable, this Lease shall immediately terminate and Rent shall be apportioned as of said date. If part of the Premises shall be Taken, and this Lease is not terminated as provided above, Landlord shall promptly restore the Premises and the Project as nearly as is commercially reasonable under the circumstances to their condition prior to such partial Taking and the rentable square footage of the Building, the rentable square footage of the Premises, Tenant's Share of Operating Expenses and the Rent payable hereunder during the unexpired Term shall be reduced to such extent as may be fair and reasonable under the circumstances. Upon any such Taking, Landlord shall be entitled to receive the entire price or award from any such Taking without any payment to Tenant, and Tenant hereby assigns to Landlord Tenant's interest, if any, in such award. Tenant shall have the right, to the extent that same shall not diminish Landlord's award, to make a separate claim against the condemning authority (but not Landlord) for such compensation as may be separately awarded or recoverable by Tenant for Tenant's Property, moving expenses and damage to Tenant's trade fixtures, if a separate award for such items is made to Tenant. Tenant hereby waives any and all rights it might otherwise have pursuant to any provision of state law to terminate this Lease upon a partial Taking of the Premises or the Project.

20. **Events of Default**. Each of the following events shall be a default ("**Default**") by Tenant under this Lease:

(a) **Payment Defaults**. Tenant shall fail to pay any installment of Rent or any other payment hereunder when due; provided, however, that Landlord will give Tenant written notice and an opportunity to cure any failure to pay Rent or any other payment due hereunder within 5 days of any such notice not more than twice in any 12 month period and Tenant agrees that such notice shall be in lieu of and not in addition to, or shall be deemed to be, any notice required by law.

(b) **Insurance**. Any insurance required to be maintained by Tenant pursuant to this Lease shall be canceled or terminated or shall expire or shall be reduced or materially changed, or Landlord shall receive a notice of nonrenewal of any such insurance and Tenant shall fail to obtain replacement insurance at least 20 days before the expiration of the current coverage; provided, however, that Tenant shall not be in default if Tenant's insurer provides Landlord with reasonably satisfactory evidence of Tenant's renewal prior to the expiration of such policies and Tenant furnishes Landlord with renewal certificates within 5 days after such renewal.

(c) **Abandonment**. Tenant shall abandon the Premises. Tenant shall not be deemed to have abandoned the Premises if Tenant first complies with the surrender provisions of Section 28 hereof and continues during the balance of the Term to satisfy all of its obligations under the Lease as they come due.

(d) **Improper Transfer**. Tenant shall assign, sublease or otherwise transfer or attempt to transfer all or any portion of Tenant's interest in this Lease or the Premises except as expressly permitted herein, or Tenant's interest in this Lease shall be attached, executed upon, or otherwise judicially seized and such action is not released within 90 days of the action.

(e) **Liens**. Tenant shall fail to discharge or otherwise obtain the release of any lien placed upon the Premises in violation of this Lease within 30 days after Tenant receives notice that any such lien is filed against the Premises.

(f) **Insolvency Events**. Tenant or any guarantor or surety of Tenant's obligations hereunder shall: (A) make a general assignment for the benefit of creditors; (B) commence any case, proceeding or other action seeking to have an order for relief entered on its behalf as a debtor or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or of any substantial part of its property (collectively a "**Proceeding for Relief**"); (C) become the subject of any Proceeding for Relief which is not dismissed within 90 days of its filing or entry; or (D) die or suffer a legal disability (if Tenant, guarantor, or surety is an individual) or be dissolved or otherwise fail to maintain its legal existence (if Tenant, guarantor or surety is a corporation, partnership or other entity).

(g) **Estoppel Certificate or Subordination Agreement**. Tenant fails to execute any document required from Tenant under Sections 23 within 5 business days after a second notice requesting such document.

(h) **Other Defaults**. Tenant shall fail to comply with any provision of this Lease other than those specifically referred to in this Section 20, and, except as otherwise expressly provided herein, such failure shall continue for a period of 30 days after written notice thereof from Landlord to Tenant; provided, however, if such default is of the type which cannot reasonably be cured within thirty (30) days, then Tenant shall have such longer time as is reasonably necessary provided Tenant commences to cure within ten (10) days after receipt of written notice from Landlord and diligently prosecutes such cure to completion within sixty (60) days of such notice.

Any notice given under Section 20(h) hereof shall: (i) specify the alleged default, (ii) demand that Tenant cure such default, (iii) be in lieu of, and not in addition to, or shall be deemed to be, any notice required under any provision of applicable law, and (iv) not be deemed a forfeiture or a termination of this Lease unless Landlord elects otherwise in such notice; provided that if the nature of Tenant's default pursuant to Section 20(h) is such that it cannot be cured by the payment of money and reasonably requires more than 30 days to cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said 30 day period and thereafter diligently prosecutes the same to completion.

21. **Landlord's Remedies**.

(a) **Payment By Landlord; Interest**. Upon the occurrence and during the continuance of a Default by Tenant hereunder, Landlord may, without waiving or releasing any obligation of Tenant hereunder, make such payment or perform such act. All sums so paid or incurred by Landlord, together with interest thereon, from the date such sums were paid or incurred, at the annual rate equal to the rate charged by commercial banks for unsecured loans to their most creditworthy customers plus 3% per annum (the "**Interest Rate**"), shall be payable to Landlord on demand as Additional Rent. Nothing herein shall be construed to create or impose a duty on Landlord to mitigate any damages resulting from Tenant's Default hereunder.

(b) **Late Payment Rent**. Late payment by Tenant to Landlord of Rent and other sums due will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult and impracticable to ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord under any Mortgage covering the Premises. Therefore, if any installment of Rent due from Tenant is not received by Landlord within 5 business days after the date such payment is due more than twice in any 12 month period, Tenant shall pay to Landlord an additional sum equal to 5% of the overdue Rent as a late charge. The parties agree that this late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. In addition to the late charge, Rent not paid when due more than twice in any 12 month period shall bear interest at the Interest Rate from the 5th day after written notice from Landlord that Rent was due.

(c) **Remedies**. Upon the occurrence and during the continuance of a Default, Landlord, at its option, without further notice or demand to Tenant, shall have in addition to all other rights and remedies

provided in this Lease, at law or in equity, the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive, without any notice or demand whatsoever. In the event that Landlord initiates a remedy hereunder at any time that a Default has occurred and is continuing, Tenant shall have no ability to cure such Default.

(i) Terminate this Lease, or at Landlord's option, Tenant's right to possession only, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which 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 or damages therefor;

(ii) Upon any termination of this Lease, whether pursuant to the foregoing Section 21(c)(i) or otherwise, Landlord may recover from Tenant the following:

(A) The worth at the time of award of any unpaid rent which has 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 rental loss that Tenant proves could have been 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 under this Lease or which in the ordinary course of things would be likely to result therefrom, specifically including, but not limited to, brokerage commissions and advertising expenses incurred, expenses of remodeling the Premises or any portion thereof for a new tenant, whether for the same or a different use, and any special concessions made to obtain a new tenant; and

(E) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

The term "**rent**" as used in this Section 21 shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Lease, whether to Landlord or to others. As used in Sections 21(c)(ii) (A) and (B), above, the "**worth at the time of award**" shall be computed by allowing interest at the Interest Rate. As used in Section 21(c)(ii)(C) above, 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%.

(iii) Landlord may continue this Lease in effect after Tenant's Default and recover rent as it becomes due (Landlord and Tenant hereby agreeing that Tenant has the right to sublet or assign hereunder, subject only to reasonable limitations). Accordingly, if Landlord does not elect to terminate this Lease following a 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.

(iv) Whether or not Landlord elects to terminate this Lease following a Default by Tenant, Landlord shall have the right to terminate any and all subleases, licenses, concessions or other consensual arrangements for possession entered into by Tenant and affecting the Premises or may, in Landlord's sole discretion, succeed to Tenant's interest in such subleases, licenses, concessions or arrangements. Upon Landlord's election to succeed to Tenant's interest in any

such subleases, licenses, concessions or arrangements, Tenant shall, as of the date of notice by Landlord of such election, have no further right to or interest in the rent or other consideration receivable thereunder.

(v) Independent of the exercise of any other remedy of Landlord hereunder or under applicable law, Landlord may conduct an environmental test of the Premises as generally described in Section 30(d) hereof, at Tenant's expense.

(d) **Effect of Exercise**. Exercise by Landlord of any remedies hereunder or otherwise available shall not be deemed to be an acceptance of surrender of the Premises and/or a termination of this Lease by Landlord, it being understood that such surrender and/or termination can be effected only by the express written agreement of Landlord and Tenant. Any law, usage, or custom to the contrary notwithstanding, Landlord shall have the right at all times to enforce the provisions of this Lease in strict accordance with the terms hereof; and the failure of Landlord at any time to enforce its rights under this Lease strictly in accordance with same shall not be construed as having created a custom in any way or manner contrary to the specific terms, provisions, and covenants of this Lease or as having modified the same and shall not be deemed a waiver of Landlord's right to enforce one or more of its rights in connection with any subsequent default. A receipt by Landlord of Rent or other payment with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision of this Lease shall be deemed to have been made unless expressed in writing and signed by Landlord. To the greatest extent permitted by law, Tenant waives the service of notice of Landlord's intention to re-enter, re-take or otherwise obtain possession of the Premises as provided in any statute, or to institute legal proceedings to that end, and also waives all right of redemption in case Tenant shall be dispossessed by a judgment or by warrant of any court or judge. Any reletting of the Premises or any portion thereof shall be on such terms and conditions as Landlord in its reasonable discretion may determine. Landlord shall not be liable for, nor shall Tenant's obligations hereunder be diminished because of, Landlord's failure to relet the Premises or collect rent due in respect of such reletting arising by reason of Tenant's Default. Landlord shall, however, use reasonable efforts to mitigate any damages arising by reason of Tenant's Default; provided, however, that in no event shall mitigation require Landlord to consider, among other things, (i) any tenant which does not satisfy Landlord's then current underwriting criteria, (ii) subdividing the Premises unless Landlord elects in the exercise of its sole discretion to do so, or (iii) granting any tenant improvement allowances, free rent or other lease concessions. In addition, Landlord shall not be deemed to have breached its mitigation obligation if Landlord considers any the factors described in Section 22(b) that Landlord would have the right to consider in connection with granting or withholding consent to any proposed assignment or sublease.

22. **Assignment and Subletting**.

(a) **General Prohibition**. Unless otherwise provided herein, without Landlord's prior written consent (which shall not be unreasonably withheld or delayed), subject to and on the conditions described in this Section 22, Tenant shall not, directly or indirectly, voluntarily or by operation of law, assign this Lease or sublease the Premises or any part thereof or mortgage, pledge, or hypothecate its leasehold interest or grant any concession or license within the Premises, and any attempt to do any of the foregoing shall be void and of no effect. If Tenant is a corporation, partnership or limited liability company, the shares or other ownership interests thereof which are not actively traded upon a stock exchange or in the over-the-counter market, a transfer or series of transfers whereby 49% or more of the issued and outstanding shares or other ownership interests of such corporation are, or voting control is, transferred (but excepting transfers upon deaths of individual owners) from a person or persons or entity or entities which were owners thereof at time of execution of this Lease to persons or entities who were not owners of shares or other ownership interests of the corporation, partnership or limited liability company at time of execution of this Lease, shall be deemed an assignment of this Lease requiring the consent of Landlord as provided in this Section 22.

(b) **Permitted Transfers**. If Tenant desires to assign, sublease, hypothecate or otherwise transfer this Lease or sublet the Premises (each, a "Transfer"), then at least 15 business days, but not more than 45 business days, before the date Tenant desires the Transfer to be effective (the "**Assignment**

Date"), Tenant shall give Landlord a notice (the "**Assignment Notice**") containing such information about the proposed Transfer, including the proposed use of the Premises and any Hazardous Materials proposed to be used, stored handled, treated, generated in or released or disposed of from the Premises, the Assignment Date, any relationship between Tenant and the proposed assignee or sublessee, and all material terms and conditions of the proposed Transfer, including a copy of any proposed assignment or sublease in its final form, and such other reasonable information as Landlord may deem reasonably necessary or appropriate to its consideration whether to grant its consent. Landlord may not unreasonably withhold or delay its consent to such proposed assignment or subletting. Landlord shall not unreasonably withhold its consent to any proposed Transfer on the terms specified in the Assignment Notice and will respond to Tenant's Assignment Notice within fifteen (15) business days following delivery by Tenant of the Assignment Notice and all of the items described in the immediately preceding sentence. If Landlord fails to timely deliver to Tenant notice of Landlord's consent, or the withholding of consent, to a proposed Transfer within such 15-business day period, then Tenant may send a second (2nd) notice to Landlord, which notice must contain the following inscription, in bold faced lettering: "**SECOND NOTICE DELIVERED PURSUANT TO SECTION 22 OF LEASE -- FAILURE TO TIMELY RESPOND WITHIN FIVE (5) BUSINESS DAYS SHALL RESULT IN DEEMED APPROVAL OF ASSIGNMENT OR SUBLEASE**." If Landlord fails to deliver notice of Landlord's consent to, or the withholding of Landlord's consent, to the proposed Transfer within five (5) business days following receipt of such second notice, Landlord shall be deemed to have approved the Transfer in question. If Landlord at any time timely delivers notice to Tenant of Landlord's withholding of consent to a proposed Transfer, Landlord shall specify in reasonable detail in such notice the basis for such withholding of consent. Among other reasons, it shall be reasonable for Landlord to withhold its consent to a proposed Transfer in any of these instances: (1) the proposed subtenant or assignee is a governmental agency; (2) in Landlord's reasonable judgment, the use of the Premises by the proposed subtenant or assignee would entail any alterations that would lessen the value of the leasehold improvements in the Premises, or would require increased services by Landlord; (3) in Landlord's reasonable judgment, the proposed subtenant or assignee is engaged in areas of scientific research or other business concerns that are controversial; (4) in Landlord's reasonable judgment, the proposed subtenant or assignee lacks the creditworthiness to support the financial obligations it will incur under the proposed sublease; (5) in Landlord's reasonable judgment, the character, reputation, or business of the proposed subtenant or assignee is inconsistent with the desired tenant-mix or the quality of other tenancies in the Project or is inconsistent with the type and quality of the nature of the Building; (6) Landlord has experienced previous defaults by or is in litigation with the proposed subtenant or assignee; (7) the use of the Premises by the proposed subtenant or assignee will violate any applicable Legal Requirement; or (8) the proposed subtenant or assignee is an entity with whom Landlord is negotiating to lease space in the Project. Tenant shall reimburse Landlord for all of Landlord's reasonable out-of-pocket expenses in connection with its consideration of any Assignment Notice not to exceed $2,500 in each instance.

Notwithstanding the foregoing, Landlord's consent to an assignment of this Lease or a subletting of any portion of the Premises to any entity controlling, controlled by or under common control with Tenant (each, a "**Tenant Affiliate**") shall not be required (a "**Control Permitted Assignment**"), provided that Landlord shall have the right to reasonably approve the form of any such sublease or assignment, the parties shall execute a consent to such sublease or assignment in form and content reasonably acceptable to Landlord, and Tenant shall promptly provide Landlord with a copy of any such sublease or assignment. In addition, Tenant shall have the right to assign this Lease, upon 30 days prior written notice to Landlord (to the extent permitted by Legal Requirements to provide such advance notice but in any event as soon as permitted by Legal Requirements) but without obtaining Landlord's prior written consent, to a corporation or other entity which is a successor-in-interest to Tenant, by way of merger, consolidation or corporate reorganization, or by the purchase of all or substantially all of the assets or the ownership interests of Tenant provided that (i) such merger or consolidation, or such acquisition or assumption, as the case may be, is for a good business purpose and not principally for the purpose of transferring the Lease, and (ii) the net worth (as determined in accordance with generally accepted accounting principles ("**GAAP**")) of the assignee is not less than the greater of the net worth (as determined in accordance with GAAP) of Tenant as of (A) the date of this Lease, or (B) as of the date of Tenant's most current quarterly or annual financial statements, and (iii) such assignee shall agree in writing to assume all of the terms, covenants and

conditions of this Lease (a "**Corporate Permitted Assignment**"). Control Permitted Assignments and Corporate Permitted Assignments are hereinafter referred to as "**Permitted Assignments**."

(c) **Additional Conditions**. As a condition to any such assignment or subletting, whether or not Landlord's consent is required, Landlord may require:

(i) that any assignee or subtenant agree, in writing at the time of such assignment or subletting, that if Landlord gives such party notice that Tenant is in Default under this Lease, such party shall thereafter make all payments otherwise due Tenant directly to Landlord, which payments will be received by Landlord without any liability except to credit such payment against those due under the Lease, and any such third party shall agree to attorn to Landlord or its successors and assigns should this Lease be terminated for any reason; provided, however, in no event shall Landlord or its successors or assigns be obligated to accept such attornment; and

(ii) The proposed assignee or sublessee to provide the same information which Tenant is required to submit to Landlord pursuant to Section 30(b). Neither Tenant nor any such proposed assignee or subtenant is required, however, to provide Landlord with any portion(s) of the such documents containing information of a proprietary nature which, in and of themselves, do not contain a reference to any Hazardous Materials or hazardous activities.

(d) **No Release of Tenant, Sharing of Excess Rents**. Notwithstanding any assignment or subletting, Tenant and any guarantor or surety of Tenant's obligations under this Lease shall at all times remain fully and primarily responsible and liable for the payment of Rent and for compliance with all of Tenant's other obligations under this Lease. If the Rent due and payable by a sublessee or assignee (or a combination of the rental payable under such sublease or assignment plus any bonus or other consideration therefor or incident thereto in any form) exceeds the sum of the rental payable under this Lease, (excluding however, any Rent payable under this Section) and actual and reasonable brokerage fees, legal costs and any design or construction fees directly related to and required pursuant to the terms of any such sublease) ("**Excess Rent**"), then Tenant shall be bound and obligated to pay Landlord as Additional Rent hereunder 50% of such Excess Rent within 10 business days following receipt thereof by Tenant.

(e) **No Waiver**. The consent by Landlord to any Transfer shall not relieve Tenant or any assignees of this Lease or any sublessees of the Premises from obtaining the consent of Landlord to any further assignment or subletting nor shall it release Tenant or any assignee or sublessee of Tenant from full and primary liability under the Lease. The acceptance of Rent hereunder, or the acceptance of performance of any other term, covenant, or condition thereof, from any other person or entity shall not be deemed to be a waiver of any of the provisions of this Lease or a consent to any subletting, assignment or other transfer of the Premises.

23. **Estoppel Certificate**. Tenant shall, within 10 business days after written notice from Landlord, execute, acknowledge and deliver a statement in writing in any form reasonably requested by a proposed lender or purchaser, (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect) and the dates to which the rental and other charges are paid in advance, if any, (ii) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord or Tenant hereunder, or specifying such defaults if any are claimed, and (iii) setting forth such further information with respect to the status of this Lease or the Premises as may be requested thereon. Any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the real property of which the Premises are a part. Tenant's failure to deliver such statement within such time shall, at the option of Landlord, constitute a Default under this Lease, and, in any event, shall be conclusive upon Tenant that the Lease is in full force and effect and without modification except as may be represented by Landlord in any certificate prepared by Landlord and delivered to Tenant for execution.

24. **Quiet Enjoyment**. So long as Tenant is not in Default under this Lease, Tenant shall, subject to the terms of this Lease, at all times during the Term, have peaceful and quiet enjoyment of the Premises against any person claiming by, through or under Landlord.

25. **Prorations**. All prorations required or permitted to be made hereunder shall be made on the basis of a 360 day year and 30 day months.

26. **Rules and Regulations**. Tenant shall, at all times during the Term and any extension thereof, comply with all reasonable rules and regulations at any time or from time to time established by Landlord covering use of the Premises and the Project. The current rules and regulations are attached hereto as **Exhibit E**. If there is any conflict between said rules and regulations and other provisions of this Lease, the terms and provisions of this Lease shall control. The rules and regulations shall not unreasonably interfere with the Permitted Use. Landlord shall not have any liability or obligation for the breach of any rules or regulations by other tenants in the Project and shall not enforce such rules and regulations in a discriminatory manner.

27. **Subordination**. This Lease and Tenant's interest and rights hereunder are hereby made and shall be subject and subordinate at all times to the lien of any Mortgage now existing or hereafter created on or against the Project or the Premises, and all amendments, restatements, renewals, modifications, consolidations, refinancing, assignments and extensions thereof, without the necessity of any further instrument or act on the part of Tenant; provided, however that so long as there is no Default hereunder, Tenant's right to possession of the Premises shall not be disturbed by the Holder of any such Mortgage. Tenant agrees, at the election of the Holder of any such Mortgage, to attorn to any such Holder and upon such attornment, Tenant shall be released from Tenant's obligation to pay Rent thereafter coming due hereunder to Landlord and shall instead pay such Holder. Tenant agrees upon demand to execute, acknowledge and deliver commercially reasonable instruments mutually acceptable to Holder and Tenant confirming such subordination, and such commercially reasonable instruments of attornment mutually acceptable to Holder and Tenant, provided any such instruments contain appropriate non-disturbance provisions assuring Tenant's quiet enjoyment of the Premises as set forth in Section 24 hereof. Notwithstanding the foregoing, any such Holder may at any time subordinate its Mortgage to this Lease, without Tenant's consent, by notice in writing to Tenant, and thereupon this Lease shall be deemed prior to such Mortgage without regard to their respective dates of execution, delivery or recording and in that event such Holder shall have the same rights with respect to this Lease as though this Lease had been executed prior to the execution, delivery and recording of such Mortgage and had been assigned to such Holder. The term "**Mortgage**" whenever used in this Lease shall be deemed to include deeds of trust, security assignments and any other encumbrances, and any reference to the "**Holder**" of a Mortgage shall be deemed to include the beneficiary under a deed of trust.

Landlord represents and warrants that, as of the date of this Lease, there is no Mortgage encumbering the Premises or the Project.

28. **Surrender**. Upon the expiration of the Term or earlier termination of Tenant's right of possession, Tenant shall surrender the Premises to Landlord in the same condition as received, subject to any Tenant Improvements, Alterations or Installations required or permitted by Landlord to remain in the Premises, free of Hazardous Materials brought upon, kept, used, stored, handled, treated, generated in, or released or disposed of from, the Premises by any person other than a Landlord Party (collectively, "**Tenant HazMat Operations**") and released of all Hazardous Materials Clearances, broom clean, ordinary wear and tear and casualty loss and condemnation covered by Sections 18 and 19 excepted. At least 3 months prior to the surrender of the Premises, Tenant shall deliver to Landlord a narrative description of the actions proposed (or required by any Governmental Authority) to be taken by Tenant in order to surrender the Premises (including any Installations permitted by Landlord to remain in the Premises) at the expiration or earlier termination of the Term, free from any residual impact from the Tenant HazMat Operations and otherwise released for unrestricted use and occupancy such that any Hazardous Materials brought upon, kept, used, stored, handled, treated, generated in, or released or disposed of from, the Premises are removed from the Premises consistent with prudent commercial practices and such that no Hazardous

Materials remain at the Premises in violation of Environmental Requirements and the continued presence of Hazardous Materials are not in excess of industry standards for the occupancy and re-use of the Premises for research and scientific purposes by a subsequent tenant of the Premises (the "**Surrender Plan**"). Such Surrender Plan shall be accompanied by a current listing of (i) all Hazardous Materials licenses and permits held by or on behalf of any Tenant Party with respect to the Premises, and (ii) all Hazardous Materials used, stored, handled, treated, generated, released or disposed of from the Premises, and shall be subject to the review and approval of Landlord's environmental consultant. In connection with the review and approval of the Surrender Plan, upon the request of Landlord, Tenant shall deliver to Landlord or its consultant such additional non-proprietary information concerning Tenant HazMat Operations as Landlord shall request. On or before such surrender, Tenant shall deliver to Landlord evidence that the approved Surrender Plan shall have been satisfactorily completed and Landlord shall have the right, subject to reimbursement at Tenant's expense as set forth below, to cause Landlord's environmental consultant to inspect the Premises and perform such additional procedures as may be deemed reasonably necessary to confirm that the Premises are, as of the effective date of such surrender or early termination of the Lease, free from any residual impact from Tenant HazMat Operations. Tenant shall reimburse Landlord, as Additional Rent, for the actual out-of-pocket expense incurred by Landlord for Landlord's environmental consultant to review and approve the Surrender Plan and to visit the Premises and verify satisfactory completion of the same, which cost shall not exceed $5,000. Landlord shall have the unrestricted right to deliver such Surrender Plan and any report by Landlord's environmental consultant with respect to the surrender of the Premises to third parties.

If Tenant shall fail to prepare or submit a Surrender Plan approved by Landlord, or if Tenant shall fail to complete the approved Surrender Plan, or if such Surrender Plan, whether or not approved by Landlord, shall fail to adequately address any residual effect of Tenant HazMat Operations in, on or about the Premises, Landlord shall have the right to take such actions as Landlord may deem reasonable or appropriate to assure that the Premises and the Project are surrendered free from any residual impact from Tenant HazMat Operations, the cost of which actions shall be reimbursed by Tenant as Additional Rent, without regard to the limitation set forth in the first paragraph of this Section 28.

Tenant shall promptly return to Landlord all keys and/or access cards to parking, the Project, restrooms or all or any portion of the Premises furnished to or otherwise procured by Tenant. If any such access card or key is lost, Tenant shall pay to Landlord, at Landlord's election, either the cost of replacing such lost access card or key or the cost of reprogramming the access security system in which such access card was used or changing the lock or locks opened by such lost key. Any Tenant's Property, Alterations and property not so removed by Tenant as permitted or required herein shall be deemed abandoned and may be stored, removed, and disposed of by Landlord at Tenant's expense, and Tenant waives all claims against Landlord for any damages resulting from Landlord's retention and/or disposition of such property. All obligations of Tenant hereunder not fully performed as of the termination of the Term, including the obligations of Tenant under Section 30 hereof, shall survive the expiration or earlier termination of the Term, including, without limitation, indemnity obligations, payment obligations with respect to Rent and obligations concerning the condition and repair of the Premises.

29. **Waiver of Jury Trial**. TO THE EXTENT PERMITTED BY LAW, TENANT AND LANDLORD WAIVE ANY RIGHT TO TRIAL BY JURY OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, BETWEEN LANDLORD AND TENANT ARISING OUT OF THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS RELATED HERETO.

30. **Environmental Requirements**.

(a) **Prohibition/Compliance/Indemnity**. Tenant shall not cause or permit any Hazardous Materials (as hereinafter defined) to be brought upon, kept, used, stored, handled, treated, generated in or about, or released or disposed of from, the Premises or the Project in violation of applicable Environmental Requirements (as hereinafter defined) by Tenant or any Tenant Party. If Tenant breaches the obligation

stated in the preceding sentence, or if the presence of Hazardous Materials in the Premises during the Term, any holding over, or during any other period of occupancy of the Premises by Tenant results in contamination of the Premises, the Project or any adjacent property or if contamination of the Premises, the Project or any adjacent property by Hazardous Materials brought into, kept, used, stored, handled, treated, generated in or about, or released or disposed of from, the Premises by anyone other than Landlord and Landlord's employees, agents and contractors otherwise occurs during the Term, any holding over, or during any other period of occupancy of the Premises by Tenant, Tenant hereby indemnifies and shall defend and hold Landlord, its officers, directors, employees, agents and contractors harmless from any and all actions (including, without limitation, remedial or enforcement actions of any kind, administrative or judicial proceedings, and orders or judgments arising out of or resulting therefrom), costs, claims, damages (including, without limitation, punitive damages and damages based upon diminution in value of the Premises or the Project, or the loss of, or restriction on, use of the Premises or any portion of the Project), expenses (including, without limitation, attorneys', consultants' and experts' fees, court costs and amounts paid in settlement of any claims or actions), fines, forfeitures or other civil, administrative or criminal penalties, injunctive or other relief (whether or not based upon personal injury, property damage, or contamination of, or adverse effects upon, the environment, water tables or natural resources), liabilities or losses (collectively, "**Environmental Claims**") which arise during or after the Term as a result of such contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, treatment, remedial, removal, or restoration work required by any federal, state or local Governmental Authority because of Hazardous Materials present in the air, soil or ground water above, on, or under the Premises. Notwithstanding anything to the contrary contained in Section 28 or in this Section 30, Tenant shall not be responsible for, and the indemnification and hold harmless obligation set forth in this paragraph shall not apply to (i) contamination in the Premises which Tenant can prove to Landlord's reasonable satisfaction existed in the Premises prior to Tenant's occupancy of the Premises (whether pursuant to the terms of the Pfizer Sublease or the Existing Lease Agreement), or (ii) the presence of any Hazardous Materials in the Premises which Tenant can prove to Landlord's reasonable satisfaction migrated from outside of the Premises into the Premises, unless in either case, the presence of such Hazardous Materials (x) is the result of a breach by Tenant of any of its obligations under this Lease, or (y) was caused, contributed to or exacerbated by Tenant or any Tenant Party.

(b) **Business**. Landlord acknowledges that it is not the intent of this Section 30 to prohibit Tenant from using the Premises for the Permitted Use. Tenant may operate its business according to prudent industry practices so long as the use or presence of Hazardous Materials is strictly and properly monitored according to all then applicable Environmental Requirements. As a material inducement to Landlord to allow Tenant to use Hazardous Materials in connection with its business, Tenant agrees to deliver to Landlord prior to the Commencement Date a list identifying each type of Hazardous Materials to be brought upon, kept, used, stored, handled, treated, generated on, or released or disposed of from, the Premises and setting forth any and all governmental approvals or permits required in connection with the presence, use, storage, handling, treatment, generation, release or disposal of such Hazardous Materials on or from the Premises ("**Hazardous Materials List**"). Tenant shall deliver to Landlord an updated Hazardous Materials List at least once a year and shall also deliver an updated list before any new Hazardous Material is brought onto, kept, used, stored, handled, treated, generated on, or released or disposed of from, the Premises. Tenant shall deliver to Landlord true and correct copies of the following documents (the "**Haz Mat Documents**") relating to the use, storage, handling, treatment, generation, release or disposal of Hazardous Materials prior to the Commencement Date, or if unavailable at that time, concurrent with the receipt from or submission to a Governmental Authority: permits; approvals; reports and correspondence; storage and management plans, notice of violations of any Legal Requirements; plans relating to the installation of any storage tanks to be installed in or under the Project (provided, said installation of tanks shall only be permitted after Landlord has given Tenant its written consent to do so, which consent may be withheld in Landlord's sole and absolute discretion); all closure plans or any other documents required by any and all federal, state and local Governmental Authorities for any storage tanks installed in, on or under the Project for the closure of any such tanks; and a Surrender Plan (to the extent surrender in accordance with Section 28 cannot be accomplished in 3 months). Tenant is not required, however, to provide Landlord with any portion(s) of the Haz Mat Documents containing information of a

proprietary nature which, in and of themselves, do not contain a reference to any Hazardous Materials or hazardous activities. It is not the intent of this Section to provide Landlord with information which could be detrimental to Tenant's business should such information become possessed by Tenant's competitors.

(c) **Tenant Representation and Warranty**. Tenant hereby represents and warrants to Landlord that (i) neither Tenant nor any of its legal predecessors has been required by any prior landlord, lender or Governmental Authority at any time to take remedial action in connection with Hazardous Materials contaminating a property which contamination was permitted by Tenant of such predecessor or resulted from Tenant's or such predecessor's action or use of the property in question, and (ii) Tenant is not subject to any enforcement order issued by any Governmental Authority in connection with the use, storage, handling, treatment, generation, release or disposal of Hazardous Materials (including, without limitation, any order related to the failure to make a required reporting to any Governmental Authority).

(d) **Testing**. Landlord shall have the right to conduct annual tests of the Premises to determine whether any contamination of the Premises or the Project has occurred as a result of Tenant's use. Tenant shall be required to pay the cost of such annual test of the Premises if the results of such tests indicate the presence of contamination for which Tenant is responsible under this Lease; provided, however, that if Tenant conducts its own tests of the Premises using third party contractors and test procedures acceptable to Landlord which tests are certified to Landlord, Landlord shall accept such tests in lieu of the annual tests to be paid for by Tenant. In addition to annual testing, at any time prior to the expiration or earlier termination of the Term in connection with the anticipated termination of this Lease, Landlord shall have the right to conduct appropriate tests of the Premises and the Project to determine if contamination has occurred as a result of Tenant's use of the Premises. In connection with such testing, upon the request of Landlord, Tenant shall deliver to Landlord or its consultant such non-proprietary information concerning the use of Hazardous Materials in or about the Premises by Tenant or any Tenant Party. If contamination has occurred for which Tenant is liable under this Section 30, Tenant shall pay all costs to conduct such tests. If no such contamination is found, Landlord shall pay the costs of such tests (which shall not constitute an Operating Expense). Landlord shall provide Tenant with a copy of all third party, non-confidential reports and tests of the Premises made by or on behalf of Landlord during the Term without representation or warranty and subject to a confidentiality agreement. Tenant shall, at its sole cost and expense, promptly and satisfactorily remediate any environmental conditions identified by such testing in accordance with all Environmental Requirements. Landlord's receipt of or satisfaction with any environmental assessment in no way waives any rights which Landlord may have against Tenant.

(e) **Control Areas**. Tenant shall be allowed to utilize up to its pro rata share of the Hazardous Materials inventory within any control area or zone (located within the Premises), as designated by the applicable building code, for chemical use or storage. As used in the preceding sentence, Tenant's pro rata share of any control areas or zones located within the Premises shall be determined based on the rentable square footage that Tenant leases within the applicable control area or zone. For purposes of example only, if a control area or zone contains 10,000 rentable square feet and 2,000 rentable square feet of a tenant's premises are located within such control area or zone (while such premises as a whole contains 5,000 rentable square feet), the applicable tenant's pro rata share of such control area would be 20%. Tenant shall be permitted to establish "Lab Suites" in accordance with the 2007 CBC Section 443, Group L-Occupancy; provided, however, that Tenant complies with all Legal Requirements and the provisions of this Lease.

(f) **Underground Tanks**. If underground or other storage tanks storing Hazardous Materials located on the Premises or the Project are used by Tenant or are hereafter placed on the Premises or the Project by Tenant, Tenant shall install, use, monitor, operate, maintain, upgrade and manage such storage tanks, maintain appropriate records, obtain and maintain appropriate insurance, implement reporting procedures, properly close any underground storage tanks, and take or cause to be taken all other actions necessary or required under applicable state and federal Legal Requirements, as such now exists or may hereafter be adopted or amended in connection with the installation, use, maintenance, management, operation, upgrading and closure of such storage tanks.

(g) **Tenant's Obligations**. Tenant's obligations under this Section 30 shall survive the expiration or earlier termination of the Lease. During any period of time after the expiration or earlier termination of this Lease required by Tenant or Landlord to complete the removal from the Premises of any Hazardous Materials (including, without limitation, the release and termination of any licenses or permits restricting the use of the Premises and the completion of the approved Surrender Plan), Tenant shall continue to pay the full Rent in accordance with this Lease for any portion of the Premises not relet by Landlord in Landlord's sole discretion, which Rent shall be prorated daily.

(h) **Definitions**. As used herein, the term "**Environmental Requirements**" means all applicable present and future statutes, regulations, ordinances, rules, codes, judgments, orders or other similar enactments of any Governmental Authority regulating or relating to health, safety, or environmental conditions on, under, or about the Premises or the Project, or the environment, including without limitation, the following: the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; and all state and local counterparts thereto, and any regulations or policies promulgated or issued thereunder. As used herein, the term "**Hazardous Materials**" means and includes any substance, material, waste, pollutant, or contaminant listed or defined as hazardous or toxic, or regulated by reason of its impact or potential impact on humans, animals and/or the environment under any Environmental Requirements, asbestos and petroleum, including crude oil or any fraction thereof, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). As defined in Environmental Requirements, Tenant is and shall be deemed to be the "**operator**" of Tenant's "**facility**" and the "**owner**" of all Hazardous Materials brought on the Premises by Tenant or any Tenant Party, and the wastes, by-products, or residues generated, resulting, or produced therefrom.

31. **Tenant's Remedies/Limitation of Liability**. Landlord shall not be in default hereunder unless Landlord fails to perform any of its obligations hereunder within 30 days after written notice from Tenant specifying such failure (unless such performance will, due to the nature of the obligation, require a period of time in excess of 30 days, then after such period of time as is reasonably necessary). Upon any default by Landlord, Tenant shall give notice of such default by registered or certified mail to any Holder of a Mortgage covering the Premises and provided Landlord shall have furnished to Tenant the address of Holder and Holder shall have the same concurrent period of time, if any, as Landlord plus an additional 10 business days to cure such default if it so elects and Tenant shall accept the cure of Holder as if it were the cure of Landlord. In addition, all obligations of Landlord hereunder shall be construed as covenants, not conditions; and, except as may be otherwise expressly provided in this Lease, Tenant may not terminate this Lease for breach of Landlord's obligations hereunder.

Notwithstanding the foregoing, if any claimed Landlord default hereunder will immediately, materially and adversely affect Tenant's ability to conduct its business in the Premises (a "**Material Landlord Default**"), Tenant shall, as soon as reasonably possible, but in any event within 2 business days of obtaining knowledge of such claimed Material Landlord Default, give Landlord written notice of such claim which notice shall specifically state that a Material Landlord Default exists and telephonic notice to Tenant's principal contact with Landlord. Landlord shall then have 2 business days to commence cure of such claimed Material Landlord Default and shall diligently prosecute such cure to completion. If such claimed Material Landlord Default is not a default by Landlord hereunder, Landlord shall be entitled to recover from Tenant, as Additional Rent, any costs incurred by Landlord in connection with such cure in excess of the costs, if any, that Landlord would otherwise have been liable to pay hereunder (other than consequential damages). If Landlord fails to commence cure of any claimed Material Landlord Default as provided above, Tenant may, upon notice to Landlord, commence and prosecute such cure to completion provided that if any cure affects the Building structure or Building Systems affecting other tenants then the same shall require Landlord's consent, and Tenant shall be entitled to recover the costs of such cure (but not any consequential or other damages) from Landlord by way of reimbursement from Landlord with no right to offset against Rent, to the extent of Landlord's obligation to cure such claimed Material Landlord Default hereunder, subject to the limitations set forth in the immediately preceding sentence of this paragraph and the other provisions of this Lease. If Landlord fails to make any payment due Tenant under this paragraph within 10 business days after written demand therefor accompanied by reasonably

acceptable invoices evidencing the costs incurred by Tenant, all sums due Tenant under this paragraph shall accrue interest at the Interest Rate. Landlord further covenants to exercise good faith and principles of fair dealing in responding to any requests from Tenant for reimbursement for which Tenant is entitled under this paragraph.

Landlord shall only be liable for those obligations of Landlord under this Lease that accrued during the period of its ownership of the Premises. The term "**Landlord**" in this Lease shall mean only the owner for the time being of the Premises. Upon the transfer by such owner of its interest in the Premises, such owner shall thereupon be released and discharged from all obligations of Landlord thereafter accruing provided that the successor landlord assumes this Lease in writing, but such obligations shall be binding during the Term upon each new owner for the duration of such owner's ownership.

32. **Inspection and Access**. In exercising its rights under this Section 32, Landlord shall use reasonable efforts to coordinate Landlord's entries into the Premises to minimize interference with Tenant's business operations in the Premises. Landlord and its agents, representatives, and contractors may enter the Premises at any reasonable time, and except in the case of an emergency, upon not less than 48 hours advance written notice to Tenant, to inspect the Premises and to make such repairs as may be required or permitted pursuant to this Lease and for any other business purpose. In addition, Landlord and Landlord's representatives may enter the Premises during business hours on not less than 48 hours advance written notice (except in the case of emergencies in which case no such notice shall be required and such entry may be at any time) for the purpose of showing the Premises to prospective purchasers and, during the last year of the Term, to prospective tenants or for any other reasonable business purpose. Landlord may erect a suitable sign on the Premises stating the Premises are available to let during the last year of the Term or that the Project is available for sale. Landlord may grant easements, make public dedications, designate Common Areas and create restrictions on or about the Premises, provided that no such easement, dedication, designation or restriction materially, adversely affects Tenant's use or occupancy of the Premises for the Permitted Use. At Landlord's request, Tenant shall execute such instruments as may be reasonably necessary for such easements, dedications or restrictions. Tenant shall at all times, except in the case of emergencies, have the right to escort Landlord or its agents, representatives, contractors or guests while the same are in the Premises, provided such escort does not materially and adversely affect Landlord's access rights hereunder.

33. **Security**. Tenant agrees that Landlord shall not be liable to Tenant for, and Tenant waives any claim against Landlord with respect to, any loss by theft or any other damage suffered or incurred by Tenant in connection with any unauthorized entry into the Premises or any other breach of security with respect to the Premises unless due to the gross negligence or willful misconduct of Landlord or its agents. Tenant shall be solely responsible for the personal safety of Tenant's officers, employees, agents, contractors, guests and invitees while any such person is in, on or about the Premises and/or the Project unless due to the gross negligence or willful misconduct of Landlord or its agents.

Upon Tenant's written request, Landlord shall make available a representative of Landlord on a quarterly basis to meet with a representative of Tenant to discuss the security being provided by Landlord in the Common Areas of the Project and additional or alternative security measures that may be implemented, as reasonably determined by Landlord, taking into account the changing nature of the neighborhood immediately surrounding the Project during the Term.

34. **Force Majeure**. Landlord shall not be responsible or liable for delays in the performance of its obligations hereunder when caused by, related to, or arising out of acts of God, sinkholes or subsidence, strikes, lockouts, or other labor disputes, embargoes, quarantines, weather, national, regional, or local disasters, calamities, or catastrophes, inability to obtain labor or materials (or reasonable substitutes therefor) at reasonable costs or failure of, or inability to obtain, utilities necessary for performance, governmental restrictions, orders, limitations, regulations, or controls, national emergencies, delay in issuance or revocation of permits, enemy or hostile governmental action, terrorism, insurrection, riots, civil disturbance or commotion, fire or other casualty, and other causes or events beyond the reasonable control of Landlord ("**Force Majeure**").

35. **Brokers**. Tenant represents and warrants that it has not dealt with any broker, agent or other person (collectively, "**Broker**") in connection with this transaction and that, other than Kidder Matthews, no Broker brought about this transaction. Tenant hereby agrees to indemnify and hold Landlord harmless from and against any claims by any Broker, other than Kidder Matthews, claiming a commission or other form of compensation by virtue of having dealt with Tenant with regard to this leasing transaction. Landlord shall be responsible for all commissions due to Kidder Matthews arising out of the execution of this Lease in accordance with the terms of a separate written agreement between Kidder Matthews and Landlord. Notwithstanding the foregoing, Landlord acknowledges that Tenant is represented by Kidder Matthews in connection with the Must Take Provision provided for in Section 39 and that Landlord shall be obligated to pay Kidder Matthews a commission pursuant to the terms of a separate written agreement between Landlord and Kidder Matthews in the event that Tenant leases any of the Must Take Space pursuant to the Must Take Provision.

36. **Limitation on Landlord's Liability**. NOTWITHSTANDING ANYTHING SET FORTH HEREIN OR IN ANY OTHER AGREEMENT BETWEEN LANDLORD AND TENANT TO THE CONTRARY: (A) LANDLORD SHALL NOT BE LIABLE TO TENANT OR ANY OTHER PERSON CLAIMING BY OR THROUGH TENANT FOR LOSS, DAMAGE OR INJURY, WHETHER ACTUAL OR CONSEQUENTIAL TO: TENANT'S PERSONAL PROPERTY OF EVERY KIND AND DESCRIPTION, INCLUDING, WITHOUT LIMITATION TRADE FIXTURES, EQUIPMENT, INVENTORY, SCIENTIFIC RESEARCH, SCIENTIFIC EXPERIMENTS, LABORATORY ANIMALS, PRODUCT, SPECIMENS, SAMPLES, AND/OR SCIENTIFIC, BUSINESS, ACCOUNTING AND OTHER RECORDS OF EVERY KIND AND DESCRIPTION KEPT AT THE PREMISES AND ANY AND ALL INCOME DERIVED OR DERIVABLE THEREFROM; (B) THERE SHALL BE NO PERSONAL RECOURSE TO LANDLORD FOR ANY ACT OR OCCURRENCE IN, ON OR ABOUT THE PREMISES OR ARISING IN ANY WAY UNDER THIS LEASE OR ANY OTHER AGREEMENT BETWEEN LANDLORD AND TENANT WITH RESPECT TO THE SUBJECT MATTER HEREOF AND ANY LIABILITY OF LANDLORD HEREUNDER SHALL BE STRICTLY LIMITED SOLELY TO LANDLORD'S INTEREST IN THE PROJECT OR ANY PROCEEDS FROM SALE OR CONDEMNATION THEREOF AND ANY INSURANCE PROCEEDS PAYABLE IN RESPECT OF LANDLORD'S INTEREST IN THE PROJECT OR IN CONNECTION WITH ANY SUCH LOSS; AND (C) IN NO EVENT SHALL ANY PERSONAL LIABILITY BE ASSERTED AGAINST LANDLORD IN CONNECTION WITH THIS LEASE NOR SHALL ANY RECOURSE BE HAD TO ANY OTHER PROPERTY OR ASSETS OF LANDLORD OR ANY OF LANDLORD'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR CONTRACTORS. UNDER NO CIRCUMSTANCES SHALL LANDLORD OR ANY OF LANDLORD'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR CONTRACTORS BE LIABLE FOR INJURY TO TENANT'S BUSINESS OR FOR ANY LOSS OF INCOME OR PROFIT THEREFROM.

37. **Severability**. If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby. It is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added, as a part of this Lease, a clause or provision as similar in effect to such illegal, invalid or unenforceable clause or provision as shall be legal, valid and enforceable.

38. **Signs; Exterior Appearance**. Tenant shall not, without the prior written consent of Landlord, which may be granted or withheld in Landlord's sole discretion: (i) attach any awnings, exterior lights, decorations, balloons, flags, pennants, banners, painting or other projection to any outside wall of the Project, (ii) use any curtains, blinds, shades or screens other than Landlord's standard window coverings, (iii) coat or otherwise sunscreen the interior or exterior of any windows, (iv) place any bottles, parcels, or other articles on the window sills, (v) place any equipment, furniture or other items of personal property on any exterior balcony, or (vi) paint, affix or exhibit on any part of the Premises or the Project any signs, notices, window or door lettering, placards, decorations, or advertising media of any type which can be viewed from the exterior of the Premises. Interior signs on doors and the directory tablet shall be inscribed, painted or affixed for Tenant by Landlord at the sole cost and expense of Tenant, and shall be of a size, color and type reasonably acceptable to Landlord. Nothing may be placed on the exterior of corridor walls or corridor doors other than Landlord's standard lettering. The directory tablet shall be provided

exclusively for the display of the name and location of tenants. Nothing contained herein is intended to limit Tenant from placing signs on the doors and walls within the Premises provided that such signs cannot be viewed from outside of the Premises and Tenant removes the same at the expiration or earlier termination of this Lease.

In addition, in the event that (and for so long as) Tenant leases and occupies all of the ROFO Space (as defined in Section 40 below), Tenant shall be entitled to install signage in all exterior locations associated with such ROFO Space (i.e., the signage being used by Existing ROFO Space Tenant (as defined below) as of the date of this Lease). Subject to compliance with all applicable Legal Requirements (including obtaining all required approvals including, without limitation, any approval required from the Redevelopment Agency) and Landlord's signage criteria for the Project, Landlord hereby consents to signs with Tenant's name at the locations reasonably acceptable to Landlord and Tenant on the west wing of the Building; provided, however, that Tenant shall be responsible for installing, maintaining and removing such signs. Notwithstanding the foregoing, Tenant acknowledges that Tenant's signage right is non-exclusive and in no event shall Tenant be entitled to more than Tenant's Share of the signage rights applicable to the Project (which share shall include the Must Take Space and the ROFO Space at such time as the same are leased by Tenant).

39. **Must Take**.

(a) **Must Take Space**. Subject to the terms and conditions herein, Landlord shall deliver and Tenant shall be required to lease such Must Take Space(s) in accordance with the terms of this Section 39 (the "**Must Take Provision**"). Each increment of the Must Take Space shall be delivered in the Delivery Condition. The "**Delivery Condition**" means: (i) in its then existing condition as second generation space with reasonable wear and tear and, if applicable, fixtures and equipment having been removed (it being the intention of the parties that Landlord shall not be required to perform any improvements in any of the Must Take Space other than repairing holes in walls and the like), (ii) subject to the terms of Section 2 of this Lease, the Building Systems (HVAC, mechanical, electrical and plumbing) are operational, (iii) that all necessary hazardous materials clearances required by applicable laws have been obtained with respect to such increment of the Must Take Space, and (iv) free of the prior tenant's personal property and otherwise in broom clean condition. Landlord shall endeavor to provide no less than 30 days advance written notice to Tenant of the actual delivery date of each increment of the Must Take Space and shall use commercially reasonable efforts to deliver each increment of Must Take Space to Tenant in the Delivery Condition as promptly as reasonably possible after the surrender of such increment by the prior tenant. Landlord shall use reasonable efforts to cause the prior tenant of each increment to surrender the applicable increment of the Must Take Space on or before the estimated delivery date (subject to the rights of existing tenants of the Must Take Spaces to extend the term of their lease) for such space, provided that reasonable efforts shall not include taking legal action against any such prior tenant. If Landlord does not deliver a particular increment of Must Take Space (each, a "**Delayed Must Take Space**") within 30 days after the estimated delivery date (subject to the rights of existing tenants of the Must Take Spaces to extend the term of their lease) for such Must Take Space (each, a "**Must Take Abatement Date**") because of the prior tenant's failure to surrender such Delayed Must Take Space, then Tenant shall receive 1 day of abated Base Rent with respect to such Delayed Must Take Space for each day after the applicable Must Take Abatement Date that Landlord fails to deliver such Delayed Must Take Space to Tenant in the Delivery Condition. Notwithstanding the foregoing, if any increment of the Must Take Space is not delivered to Tenant on or before November 1, 2020, then Tenant shall not be obligated to lease same.

(i) The Must Take Spaces consist of the following increments of space:

Increment of Must Take Space:	Rentable Square Feet:	Estimated Delivery Date:	Rent Commencement Date

Space #1	4,624 rentable square feet of space on the ground floor of the west wing of the Building	1/1/2019	90 days after the Space #1 Commencement Date
Space #2	12,979 rentable square feet of space on the fifth floor of the east wing of the Building	10/1/2019	180 days after the Space #2 Commencement Date
Space #3	2,690 rentable square feet of space on the fifth floor of the east wing of the Building	5/01/2019	90 days after the Space #3 Commencement Date
Space #4	3,178 rentable square feet of space on the fifth floor of the east wing of the Building	4/01/2020 if existing tenant extends otherwise 4/1/18	90 days after the Space #4 Commencement Date
Space #5	939 rentable square feet of space on the fifth floor of the east wing of the Building	10/01/2020 if existing tenant extends otherwise 10/1/2018	90 days after the Space #5 Commencement Date

(ii) **Space #1**. Subject to any additional time required to deliver in the Delivery Condition, Landlord shall deliver those certain premises designated as Space #1 on the attached Exhibit L (the "**Space #1 Lease**") as of the date that is 1 business day after the termination of the Space #1 Lease (the "**Space #1 Commencement Date**"), the Premises shall be automatically expanded to include Space #1, subject to the terms and conditions contained in this Section 39(a)(ii). As used herein, the term "**Space #1**" shall mean that certain 4,624 rentable square feet of space on the ground floor of the west wing of the Building, as more particularly shown in **Exhibit L** attached hereto. If the Space #1 Lease is reasonably expected to terminate prior to its scheduled expiration date, Landlord shall provide written notice (the "**Space #1 Notice**") to Tenant notifying Tenant of the date that Space #1 is expected to become available for occupancy by Tenant. Commencing on the Space #1 Commencement Date, Tenant shall lease Space #1 pursuant to all of the terms and conditions of this Lease, except that: (i) the Premises shall be increased by 4,624 rentable square feet; (ii) on or before the Space #1 Commencement Date, Tenant shall deposit with Landlord a Security Deposit in the amount of the first three full month's Base Rent for Space #1, which amount shall be in addition to any amount set forth in the Basic Lease Provisions above; (iii) the Base Rent payable with respect to Space #1 shall initially be $4.75 per rentable square foot per month and commencing on February 1, 2021 shall adjust on each Adjustment Date pursuant to Section 4; (iv) Tenant shall not be entitled to any abatement of Base Rent pursuant to the second paragraph of Section 3(a) with respect to Space #1; (v) Tenant shall commence paying Base Rent and Tenant's Share of Operating Expenses with respect to Space #1 on the date that is 90 days after the Space #1 Commencement Date (the "**Space #1 Rent Commencement Date**"); (vi) Tenant's Share of Operating Expenses with respect to Space #1 shall be 2.20%; and (vii) tenant improvements of a fixed and permanent nature within Space #1 desired by Tenant and reasonably acceptable to Landlord ("**Space #1 Tenant Improvements**"), shall be constructed by Tenant in accordance with the terms of the Work Letter; provided, however, that rather than the TI Allowance provided for in the Work Letter, Landlord shall provide to Tenant a tenant improvement allowance for the construction of Space #1 Tenant Improvements of up to $25.00 per rentable square foot of Space #1. Tenant shall accept the Space #1 in their as-is condition as of the Space #1 Commencement Date; provided, however, that for the period of 90 days after the Space #1 Commencement Date, Landlord shall, at its sole cost and expense (which shall not constitute an Operating Expense), be responsible for any repairs that are required to be made to the Building

Systems serving Space #1, unless Tenant or any Tenant Party was responsible for the cause of such repair. Within 10 days after Landlord's delivery thereof to Tenant, Tenant shall execute and deliver to Landlord CFD Notices for Space #1, in the forms provided by Landlord. Within ten (10) business days following request of Landlord, Tenant shall execute and deliver a written acknowledgment of the Space #1 Commencement Date and the Space #1 Rent Commencement Date when the same has been established in substantially the form of the "Acknowledgement of Commencement Date" attached to this Lease as **Exhibit D**; provided, however, Tenant's failure to execute and deliver such acknowledgment shall not affect Landlord's rights hereunder. Landlord shall endeavor, without any liability to Landlord or without requiring Landlord to incur any costs or expenses, to relocate the tenant currently occupying Space #1 prior to the scheduled expiration of such lease. Landlord shall not have any liability whatsoever to Tenant relating to or arising from Landlord's failure to relocate the existing tenant of Space #1 to become available prior to the Must Take Expiration Date nor shall any such failure constitute a default by Landlord under this Lease. Tenant acknowledges and agrees that the Space #1 Commencement Date may occur prior to the Commencement Date. If the Premises are expanded pursuant to this Section 39(a)(ii) to include Space #1, Landlord shall use reasonable efforts to facilitate a meeting between Tenant and the Office of Community Investment and Infrastructure (OCII) to address issues relating to Tenant's use and reconfiguration of Space #1.

(iii) **Space #2**. Subject to any additional time required to deliver in the Delivery Condition, Landlord shall deliver and as of the date that is 1 business day after the termination of the Space #2 Lease (the "**Space #2 Commencement Date**"), the Premises shall be automatically expanded to include the Space #2, subject to the terms and conditions contained in this Section 39(a)(iii). As used herein, the term "**Space #2**" shall mean that certain 12,979 rentable square feet of space on the fifth floor of the east wing of the Building, as more particularly shown in **Exhibit L** attached hereto. If the Space #2 Lease is reasonably expected to terminate prior to its scheduled expiration date, Landlord shall provide a Must Take Notice to Tenant notifying Tenant of the date that Space #2 is expected to become available for occupancy by Tenant. Commencing on the Space #2 Commencement Date, Tenant shall lease the Space #2 pursuant to all of the terms and conditions of this Lease, except that: (i) the Premises shall be increased by 12,979 rentable square feet; (ii) on or before the Space #2 Commencement Date, Tenant shall deposit with Landlord a Security Deposit in the amount of the first three full month's Base Rent for Space #2, which amount shall be in addition to any amount set forth in the Basic Lease Provisions above; (iii) the Base Rent payable with respect to Space #2 shall initially be $4.75 per rentable square foot per month and commencing on February 1, 2021 shall adjust on each Adjustment Date pursuant to Section 4; (iv) Tenant shall not be entitled to any abatement of Base Rent pursuant to the second paragraph of Section 3(a) with respect to Space #2; (v) Tenant shall commence paying Base Rent and Tenant's Share of Operating Expenses with respect to the Space #2 on the date that is 180 days after the Space #2 Commencement Date (the "**Space #2 Rent Commencement Date**"); (vi) Tenant's Share of Operating Expenses with respect to Space #2 shall be 6.18%; and (vii) tenant improvements of a fixed and permanent nature within Space #2 desired by Tenant and reasonably acceptable to Landlord ("**Space #2 Tenant Improvements**"), shall be constructed by Tenant in accordance with the terms of the Work Letter; provided, however, that rather than the TI Allowance provided for in the Work Letter, Landlord shall provide to Tenant a tenant improvement allowance for the construction of the Space #2 Tenant Improvements of up to $50.00 per rentable square foot of Space #2. Tenant shall accept Space #2 in their as-is condition as of the Space #2 Commencement Date. For the period of 90 days after the Space #2 Commencement Date, Landlord shall, at its sole cost and expense (which shall not constitute an Operating Expense), be responsible for any repairs that are required to be made to the Building Systems serving Space #2, unless Tenant or any Tenant Party was responsible for the cause of such repair. Within 10 days after Landlord's delivery thereof to Tenant, Tenant shall execute and deliver to Landlord CFD Notices for Space #2, in the forms provided by Landlord. Upon request of Landlord, Tenant shall execute and deliver a written acknowledgment of the Space #2 Commencement Date and the Space #2 Rent Commencement Date when the same has been established in substantially the form of the "Acknowledgement of Commencement Date" attached to this Lease as **Exhibit D**; provided,

however, Tenant's failure to execute and deliver such acknowledgment shall not affect Landlord's rights hereunder. Landlord shall endeavor, without any liability to Landlord or without requiring Landlord to incur any costs or expenses, to relocate the tenant currently occupying Space #2 prior to the scheduled expiration of such lease. Landlord shall not have any liability whatsoever to Tenant relating to or arising from Landlord's failure to relocate the existing tenant of Space #2 nor shall any such failure constitute a default by Landlord under this Lease. Tenant acknowledges and agrees that the Space #2 Commencement Date may occur prior to the Commencement Date.

(iv) **Space #3**. Subject to any additional time required to deliver in the Delivery Condition, Landlord shall deliver and as of the date that is 1 business day after the termination of the Space #3 Lease (the "**Space #3 Commencement Date**"), the Premises shall be automatically expanded to include the Space #3, subject to the terms and conditions contained in this Section 39(a)(iii). As used herein, the term "**Space #3**" shall mean that certain 2,690 rentable square feet of space on the fifth floor of the east wing of the Building, as more particularly shown in **Exhibit L** attached hereto. If the Space #3 Lease is reasonably expected to terminate prior to its scheduled expiration date, Landlord shall provide a Must Take Notice to Tenant notifying Tenant of the date that the Space #3 is expected to become available for occupancy by Tenant. Commencing on the Space #3 Commencement Date, Tenant shall lease Space #3 pursuant to all of the terms and conditions of this Lease, except that: (i) the Premises shall be increased by 2,690 rentable square feet; (ii) on or before the Space #3 Commencement Date, Tenant shall deposit with Landlord a Security Deposit in the amount of the first three full month's Base Rent for Space #3, which amount shall be in addition to any amount set forth in the Basic Lease Provisions above; (iii) the Base Rent payable with respect to Space #3 shall initially be $4.75 per rentable square foot per month and commencing on February 1, 2021 shall adjust on each Adjustment Date pursuant to Section 4; (iv) Tenant shall not be entitled to any abatement of Base Rent pursuant to the second paragraph of Section 3(a) with respect to Space #3; (v) Tenant shall commence paying Base Rent and Tenant's Share of Operating Expenses with respect to Space #3 on the date that is 90 days after the Space #3 Commencement Date (the "**Space #3 Rent Commencement Date**"); (vi) Tenant's Share of Operating Expenses with respect to Space #3 shall be 1.28%; and (vii) tenant improvements of a fixed and permanent nature within Space #3 desired by Tenant and reasonably acceptable to Landlord ("**Space #3 Tenant Improvements**"), shall be constructed by Tenant in accordance with the terms of the Work Letter; provided, however, that rather than the TI Allowance provided for in the Work Letter, Landlord shall provide to Tenant a tenant improvement allowance for the construction of Space #3 Tenant Improvements of up to $25.00 per rentable square foot of Space #3. Tenant shall accept Space #3 in their as-is condition as of the Space #3 Commencement Date. For the period of 90 days after the Space #3 Commencement Date, Landlord shall, at its sole cost and expense (which shall not constitute an Operating Expense), be responsible for any repairs that are required to be made to the Building Systems serving Space #3, unless Tenant or any Tenant Party was responsible for the cause of such repair. Within 10 days after Landlord's delivery thereof to Tenant, Tenant shall execute and deliver to Landlord CFD Notices for Space #3, in the forms provided by Landlord. Upon request of Landlord, Tenant shall execute and deliver a written acknowledgment of the Space #3 Commencement Date and the Space #3 Rent Commencement Date when the same has been established in substantially the form of the "Acknowledgement of Commencement Date" attached to this Lease as **Exhibit D**; provided, however, Tenant's failure to execute and deliver such acknowledgment shall not affect Landlord's rights hereunder. Landlord shall endeavor, without any liability to Landlord or without requiring Landlord to incur any costs or expenses, to relocate the tenant currently occupying Space #3 prior to the scheduled expiration of such lease. Landlord shall not have any liability whatsoever to Tenant relating to or arising from Landlord's failure to relocate the existing tenant of Space #3 nor shall any such failure constitute a default by Landlord under this Lease. Tenant acknowledges and agrees that the Space #3 Commencement Date may occur prior to the Commencement Date.

(v) **Space #4**. Subject to any additional time required to deliver in the Delivery Condition, Landlord shall deliver as of the date that is 1 business day after the termination of the Space #4 Lease (the "**Space #4 Commencement Date**"), the Premises shall be automatically

expanded to include Space #4, subject to the terms and conditions contained in this Section 39(a)(v). As used herein, the term "**Space #4**" shall mean that certain 3,178 rentable square feet of space on the fifth floor of the east wing of the Building, as more particularly shown in **Exhibit L** attached hereto. If Space #4 Lease is reasonably expected to terminate prior to its scheduled expiration date, Landlord shall provide a Must Take Notice to Tenant notifying Tenant of the date that Space #4 is expected to become available for occupancy by Tenant. Commencing on the Space #4 Commencement Date, Tenant shall lease Space #4 pursuant to all of the terms and conditions of this Lease, except that: (i) the Premises shall be increased by 3,178 rentable square feet; (ii) on or before the Space #4 Commencement Date, Tenant shall deposit with Landlord a Security Deposit in the amount of the first three full month's Base Rent for Space #4, which amount shall be in addition to any amount set forth in the Basic Lease Provisions above; (iii) the Base Rent payable with respect to Space #4 shall initially be $4.75 per rentable square foot per month and commencing on February 1, 2021 shall adjust on each Adjustment Date pursuant to Section 4; (iv) Tenant shall not be entitled to any abatement of Base Rent pursuant to the second paragraph of Section 3(a) with respect to Space #4; (v) Tenant shall commence paying Base Rent and Tenant's Share of Operating Expenses with respect to Space #4 on the date that is 90 days after the Space #4 Commencement Date (the "**Space #4 Rent Commencement Date**"); (vi) Tenant's Share of Operating Expenses with respect to Space #4 shall be 1.51%; and (vii) tenant improvements of a fixed and permanent nature within Space #4 desired by Tenant and reasonably acceptable to Landlord ("**Space #4 Tenant Improvements**"), shall be constructed by Tenant in accordance with the terms of the Work Letter; provided, however, that rather than the TI Allowance provided for in the Work Letter, Landlord shall provide to Tenant a tenant improvement allowance for the construction of the Space #4 Tenant Improvements of up to $25.00 per rentable square foot of Space #4. Tenant shall accept Space #4 in their as-is condition as of the Space #4 Commencement Date; provided, however, that for the period of 90 days after the Space #4 Commencement Date, Landlord shall, at its sole cost and expense (which shall not constitute an Operating Expense), be responsible for any repairs that are required to be made to the Building Systems serving Space #4, unless Tenant or any Tenant Party was responsible for the cause of such repair. Within 10 days after Landlord's delivery thereof to Tenant, Tenant shall execute and deliver to Landlord CFD Notices for Space #4, in the forms provided by Landlord. Upon request of Landlord, Tenant shall execute and deliver a written acknowledgment of the Space #4 Commencement Date and the Space #4 Rent Commencement Date when the same has been established in substantially the form of the "Acknowledgement of Commencement Date" attached to this Lease as **Exhibit D**; provided, however, Tenant's failure to execute and deliver such acknowledgment shall not affect Landlord's rights hereunder. Landlord shall endeavor, without any liability to Landlord or without requiring Landlord to incur any costs or expenses, to relocate the tenant currently occupying Space #4 prior to the scheduled expiration of such lease. Landlord shall not have any liability whatsoever to Tenant relating to or arising from Landlord's failure to relocate the existing tenant of Space #4 nor shall any such failure constitute a default by Landlord under this Lease. Tenant acknowledges and agrees that the Space #4 Commencement Date may occur prior to the Commencement Date.

(vi) **Space #5**. Subject to any additional time required to deliver in the Delivery Condition, Landlord shall deliver and as of the date that is 1 business day after the termination of the Space #5 Lease (the "**Space #5 Commencement Date**"), and the Premises shall be automatically expanded to include Space #5, subject to the terms and conditions contained in this Section 39(a)(vi). As used herein, the term "**Space #5**" shall mean that certain 939 rentable square feet of space on the fifth floor of the east wing of the Building, as more particularly shown in **Exhibit L** attached hereto. If the Suite #5 Lease is reasonably expected to terminate prior to its scheduled expiration date, Landlord shall provide a Must Take Notice to Tenant notifying Tenant of the date that Space #5 is expected to become available for occupancy by Tenant. Commencing on the Suite #5 Commencement Date, Tenant shall lease Space #5 pursuant to all of the terms and conditions of this Lease, except that: (i) the Premises shall be increased by 939 rentable square feet; (ii) on or before the Suite #5 Commencement Date, Tenant shall deposit with Landlord a Security Deposit in the amount of the first three full month's Base Rent for Space #5, which amount shall be in addition to any amount set forth in the Basic Lease Provisions above; (iii) the Base Rent

payable with respect to Space #5 shall initially be $4.75 per rentable square foot per month and commencing on f February 1, 2021 shall adjust on each Adjustment Date pursuant to Section 4; (iv) Tenant shall not be entitled to any abatement of Base Rent pursuant to the second paragraph of Section 3(a) with respect to Space #5; (v) Tenant shall commence paying Base Rent and Tenant's Share of Operating Expenses with respect to Space #5 on the date that is 90 days after the Suite #5 Commencement Date (the "**Suite #5 Rent Commencement Date**"); (vi) Tenant's Share of Operating Expenses with respect to the Space #5 shall be 0.45%; and (vii) tenant improvements of a fixed and permanent nature within Space #5 desired by Tenant and reasonably acceptable to Landlord ("**Suite #5 Tenant Improvements**"), shall be constructed by Tenant in accordance with the terms of the Work Letter; provided, however, that rather than the TI Allowance provided for in the Work Letter, Landlord shall provide to Tenant a tenant improvement allowance for the construction of the Suite #5 Tenant Improvements of up to $25.00 per rentable square foot Space #5. Tenant shall accept Space #5 in their as-is condition as of the Suite #5 Commencement Date; provided, however, that for the period of 90 days after the Suite #5 Commencement Date, Landlord shall, at its sole cost and expense (which shall not constitute an Operating Expense), be responsible for any repairs that are required to be made to the Building Systems serving Space #5, unless Tenant or any Tenant Party was responsible for the cause of such repair. Within 10 days after Landlord's delivery thereof to Tenant, Tenant shall execute and deliver to Landlord CFD Notices for Space #5, in the forms provided by Landlord. Upon request of Landlord, Tenant shall execute and deliver a written acknowledgment of the Suite #5 Commencement Date and the Suite #5 Rent Commencement Date when the same has been established in substantially the form of the "Acknowledgement of Commencement Date" attached to this Lease as **Exhibit D**; provided, however, Tenant's failure to execute and deliver such acknowledgment shall not affect Landlord's rights hereunder. Landlord shall endeavor, without any liability to Landlord or without requiring Landlord to incur any costs or expenses, to relocate the tenant currently occupying Space #5 prior to the scheduled expiration of such lease. Landlord shall not have any liability whatsoever to Tenant relating to or arising from Landlord's failure to relocate the existing tenant of Suite #5 and no such failure shall constitute a default by Landlord under this Lease. Tenant acknowledges and agrees that the Suite #5 Commencement Date may occur prior to the Commencement Date.

Space #1, Space #2, Space #3, Space #4 and Space #5 are collectively referred to herein as the "**Must Take Spaces**" and may each individually be referred to herein as a "**Must Take Space**."

(b) **Exceptions**. Notwithstanding the above, the Must Take Provision shall, at Landlord's option, not be in effect and Landlord shall have no obligation to deliver a Must Take Notice during any period of time that Tenant is in Default under any provision of this Lease.

(c) **Subordinate**. Tenant's rights in connection with the Must Take Spaces are and shall be subject to and subordinate to the rights of all tenants at the Project under existing leases and any such Must Take Space shall not be deemed vacant and available until all such prior rights with respect to a particular Must Take space have lapsed or been waived by the party holding such right. As used herein, "prior rights" shall mean those rights included in such tenants' leases as of the date of this Lease as outlined in the table set forth in Section 39(a)(i) above, and Landlord shall not enter into any new agreements with such tenants extending the term of such leases other than in connection with such prior rights.

(d) **Rights Personal**. The Must Take Provision is personal to Tenant and is not assignable without Landlord's consent, which may be granted or withheld in Landlord's sole discretion separate and apart from any consent by Landlord to an assignment of Tenant's interest in the Lease, except that they may be assigned in connection with any Permitted Assignment of this Lease; provided, however, that any increment of Must Take Space which has previously been delivered to Tenant shall remain a portion of the Premises following any such assignment.

40. **Right of First Offer**.

(a) **ROFO Space**. Tenant shall have a right of first offer ("**Right of First Offer**") with respect to that certain approximately 56,909 rentable square feet as depicted on **Exhibit M** attached hereto (the "**ROFO Space**"), which ROFO Space is currently leased to an existing tenant (and/or its assignees) ("**Existing ROFO Space Tenant**"), pursuant to the terms and conditions of this Section 40. Within a reasonable period after Landlord determines that the Existing ROFO Space Tenant's lease will expire or terminate with respect to all or a portion of the ROFO Space, Landlord shall offer to Tenant the right to include the ROFO Space within the Premises on the same terms and conditions upon which Landlord intends to offer the ROFO Space for lease; provided, however, in no event may Landlord require a base term for the ROFO Space of greater than 10 years. Such offer shall be made by Landlord to Tenant in a written notice (hereinafter called the "**First Offer Notice**") which offer shall identify the portion of the ROFO Space being offered (the "**Identified ROFO Space**") and designate the terms which Landlord intends to offer with respect to the ROFO Space.

(b) Tenant may accept the offer set forth in the First Offer Notice by delivering to Landlord an unconditional acceptance ("**Tenant's Notice**") of such offer within 15 business days after delivery by Landlord of the First Offer Notice to Tenant. Tenant must accept all of the Identified ROFO Space described in the First Offer Notice on any given floor or floors (i.e., such that Tenant may elect to lease less than all of the Identified ROFO Space designated in a particular First Offer Notice but in no event shall it be permitted to elect to exercise its Right of First Offer with respect to less than all the Identified ROFO Space designated therein on any given floor). Tenant's Notice must specify, subject to the immediately preceding sentence, if it intends to lease less than all of the Identified ROFO Space described in the First Offer Notice and Tenant's failure to so specify shall be deemed to mean that Tenant has elected to exercise the Right of First Offer solely with respect to the Identified ROFO Space identified in the First Offer Notice.

If (i) the term of the lease with respect to the Identified ROFO Space would pursuant to the First Offer Notice expire prior to the term of the Lease with respect to the then-existing Premises, then the term of the Lease with respect to the Identified ROFO Space shall be modified to be co-terminous with the Term of this Lease with respect to the then-existing Premises, and (ii) the term of the lease with respect to the Identified Space is modified to be co-terminous with the term of the then-existing Premises pursuant to sub-section (i) of this paragraph, then the economic terms set forth in the First Offer Notice shall be equitably adjusted to account for such extension of the term with respect to the Identified ROFO Space, provided that such adjustment of the economic terms shall be no less favorable to Landlord on an annual basis than the economic terms set forth in the First Offer Notice (and with market rate annual increases in base rent for the Identified ROFO Space for that portion of the lease term for the Identified ROFO Space beyond the term provided for in the First Offer Notice), as reasonably determined by Landlord. Tenant acknowledges and agrees that if the term of the lease with respect to the Identified ROFO Space would pursuant to the First Offer Notice expire after the term of the Lease, then the term of the lease with respect to the Identified ROFO Space and the term of the lease with respect to the then-existing Premises shall not be co-terminous.

(c) If Tenant fails to timely deliver a Tenant Notice or declines the Identified ROFO Space offered by Landlord, then Tenant shall be deemed to have irrevocably waived all further rights under this Section 40 with respect to such Identified ROFO Space, and Landlord shall be free to lease such Identified ROFO Space to any third party(ies) (a "**Third Party Lease**") for the Identified ROFO Space to anyone to whom Landlord desires on any terms Landlord desires; provided, however, if during the 270-day period following the initial delivery of the First Offer Notice to Tenant, the economic terms that Landlord is prepared to accept under a Third Party Lease are greater than six percent (6%) more favorable to the tenant than the economic terms offered by Landlord to Tenant (as such economic terms are adjusted to account for the difference, if any, in the lease term offered to Tenant and the lease term offered to such third party), then Landlord shall first make an offer of such more favorable economic terms (as such economic terms are adjusted to account for the difference, if any, in the lease term offered to Tenant and the lease term offered to such third party) (the "**New Offer Terms**") to Tenant by written notice (the "**Additional Notice**") setting forth the New Offer Terms, and Tenant shall have five (5) business days from Tenant's receipt of the Additional Notice to accept the New Offer Terms set forth in the Additional Notice (which procedure shall

be repeated until Landlord enters into a lease or lease amendment with respect to such First Offer Space which does not require Landlord to deliver another First Offer Notice to Tenant pursuant to the terms of this paragraph or Tenant exercises such right of first offer, as applicable). For purposes of this paragraph, economic terms shall be considered more favorable if they result in the reduction of the Net Effective Rental Rate (as defined below) by more than six percent (6%). The term "**Net Effective Rental Rate**" shall mean the rental rate, as adjusted to reflect the value of any free rent, tenant improvement allowance or similar monetary concessions, all as reasonably determined by Landlord. After the expiration of the 270-day period Landlord shall have no further liability to Tenant with respect to the Identified ROFO Space.

(d) **Amended Lease**. If: (i) Tenant fails to timely deliver notice accepting the terms of the First Offer Notice, or (ii) after the expiration of a period of 15 business days after Landlord's delivery to Tenant of a lease amendment for Tenant's lease of the applicable Identified ROFO Space, no lease amendment for the Identified ROFO Space acceptable to both parties each in their sole and absolute discretion, has been executed unless both parties are negotiating same in good faith, then Tenant shall be deemed to have forever waived its right to lease such Identified ROFO Space and the Right of First Offer with respect to such Identified ROFO Space shall thereafter be null and void.

(e) **Exceptions**. Notwithstanding the above, the Right of First Offer shall, at Landlord's option, not be in effect and may not be exercised by Tenant during any period of time that Tenant is in Default under any provision of the Lease

(f) **Termination**. The Right of First Offer shall, at Landlord's option, terminate and be of no further force or effect even after Tenant's due and timely exercise of the Right of First Offer, if, after such exercise, but prior to the commencement date of the lease of such Identified ROFO Space, Tenant is in Default under the Lease.

(g) **Rights Personal**. The Right of First Offer is personal to Tenant and is not assignable without Landlord's consent, which may be granted or withheld in Landlord's sole discretion separate and apart from any consent by Landlord to an assignment of Tenant's interest in the Lease, except that they may be assigned in connection with any Permitted Assignment of this Lease.

(h) **No Extensions**. The period of time within which the Right of First Offer may be exercised shall not be extended or enlarged by reason of Tenant's inability to exercise the Right of First Offer.

41. **Right to Extend Term**. Tenant shall have the right to extend the Term of the Lease upon the following terms and conditions:

(a) **Extension Rights**. Only with respect to the entire Premises then being leased by Tenant (including any Must Take Space and any ROFO Space), Tenant shall have 2 consecutive rights (each, an "**Extension Right**") to extend the term of this Lease for 5 years each (each, an "**Extension Term**") on the same terms and conditions as this Lease (other than with respect to Base Rent and the Work Letter) by giving Landlord written notice of its election to exercise each Extension Right at least 15 months prior, and no earlier than 18 months prior, to the expiration of the Base Term of the Lease or the expiration of any prior Extension Term.

Upon the commencement of any Extension Term, Base Rent shall be payable at the Market Rate (as defined below). Base Rent shall thereafter be adjusted on each annual anniversary of the commencement of such Extension Term by a percentage as determined by Landlord and agreed to by Tenant at the time the Market Rate is determined. As used herein, "**Market Rate**" shall mean the rate that comparable landlords of comparable buildings have accepted in current transactions from non-equity (i.e., not being offered equity in the buildings) and nonaffiliated tenants of similar financial strength for space of comparable size, quality (including all Tenant Improvements, Alterations and other improvements) and floor height in Class A laboratory/office buildings in Mission Bay for a comparable term, with the determination of the Market Rate to take into account all relevant factors, including tenant inducements, views, parking costs, leasing commissions, allowances or concessions, if any. Notwithstanding the foregoing, the Market

Rate shall in no event be less than the Base Rent payable as of the date immediately preceding the commencement of such Extension Term increased by the Rent Adjustment Percentage multiplied by such Base Rent. In addition, Landlord may impose a market rent for the parking rights provided hereunder.

If, on or before the date which is 270 days prior to the expiration of the Base Term of this Lease or first Extension Term, as applicable, Tenant has not agreed with Landlord's determination of the Market Rate and the rent escalations during the applicable Extension Term after negotiating in good faith, Tenant shall be deemed to have elected arbitration as described in Section 41(b). Tenant acknowledges and agrees that, if Tenant has elected to exercise the Extension Right by delivering notice to Landlord as required in this Section 41(a), Tenant shall have no right thereafter to rescind or elect not to extend the term of the Lease for the applicable Extension Term.

(b) **Arbitration**.

(i) Within 10 business days of Tenant's deemed election to arbitrate Market Rate and escalations, each party shall deliver to the other a proposal containing the Market Rate and escalations that the submitting party believes to be correct ("**Extension Proposal**"). If either party fails to timely submit an Extension Proposal, the other party's submitted proposal shall determine the Base Rent and escalations for the applicable Extension Term. If both parties submit Extension Proposals, then Landlord and Tenant shall meet within 7 days after delivery of the last Extension Proposal and make a good faith attempt to mutually appoint a single Arbitrator (and defined below) to determine the Market Rate and escalations. If Landlord and Tenant are unable to agree upon a single Arbitrator, then each shall, by written notice delivered to the other within 10 days after the meeting, select an Arbitrator. If either party fails to timely give notice of its selection for an Arbitrator, the other party's submitted proposal shall determine the Base Rent for the applicable Extension Term. The 2 Arbitrators so appointed shall, within 5 business days after their appointment, appoint a third Arbitrator. If the 2 Arbitrators so selected cannot agree on the selection of the third Arbitrator within the time above specified, then either party, on behalf of both parties, may request such appointment of such third Arbitrator by application to any state court of general jurisdiction in the jurisdiction in which the Premises are located, upon 10 days prior written notice to the other party of such intent.

(ii) The decision of the Arbitrator(s) shall be made within 30 days after the appointment of a single Arbitrator or the third Arbitrator, as applicable. The Arbitrator or Arbitrator panel, if applicable, shall select either Landlord's Extension Proposal or Tenant's Extension Proposal, whichever the Arbitrator(s) determine is closest to the Market Rate. The decision of the single Arbitrator shall be final and binding upon the parties. If there is an Arbitrator panel, then the majority vote of the Arbitrator panel shall be final and binding upon the parties. Each party shall pay the fees and expenses of the Arbitrator appointed by or on behalf of such party and the fees and expenses of the third Arbitrator shall be borne equally by both parties. If the Market Rate and escalations are not determined by the first day of the Extension Term, then Tenant shall pay Landlord Base Rent in an amount equal to the Base Rent in effect immediately prior to the Extension Term and increased by the Rent Adjustment Percentage until such determination is made. After the determination of the Market Rate and escalations, the parties shall make any necessary adjustments to such payments made by Tenant. Landlord and Tenant shall then execute an amendment recognizing the Market Rate and escalations for the Extension Term.

(iii) An "**Arbitrator**" shall be any person appointed by or on behalf of either party or appointed pursuant to the provisions hereof and: (i) shall be (A) a member of the American Institute of Real Estate Appraisers with not less than 10 years of experience in the appraisal of improved office and high tech industrial real estate in the greater Mission Bay area, or (B) a licensed commercial real estate broker with not less than 15 years' experience representing landlords and/or tenants in the leasing of high tech or life sciences space in the greater Mission Bay area, (ii) devoting substantially all of their time to professional appraisal or brokerage work, as applicable, at the time of appointment and (iii) be in all respects impartial and disinterested.

(c) **Rights Personal**. Extension Rights are personal to Tenant and are not assignable without Landlord's consent, which may be granted or withheld in Landlord's sole discretion separate and apart from any consent by Landlord to an assignment of Tenant's interest in the Lease, except that they may be assigned in connection with any Permitted Assignment of this Lease.

(d) **Exceptions**. Notwithstanding anything set forth above to the contrary, Extension Rights shall, at Landlord's option, not be in effect and Tenant may not exercise any of the Extension Rights during any period of time that Tenant is in Default under any provision of this Lease.

(e) **No Extensions**. The period of time within which any Extension Rights may be exercised shall not be extended or enlarged by reason of Tenant's inability to exercise the Extension Rights.

(f) **Termination**. The Extension Rights shall, at Landlord's option, terminate and be of no further force or effect even after Tenant's due and timely exercise of an Extension Right, if, after such exercise, but prior to the commencement date of an Extension Term Tenant fails to timely cure any Default by Tenant under this Lease.

42. **Intentionally Omitted**.

43. **Miscellaneous**.

(a) **Notices**. All notices or other communications between the parties shall be in writing and shall be deemed duly given upon delivery or refusal to accept delivery by the addressee thereof if delivered in person, or upon actual receipt if delivered by reputable overnight guaranty courier, addressed and sent to the parties at their addresses set forth above. Landlord and Tenant may from time to time by written notice to the other designate another address for receipt of future notices.

(b) **Joint and Several Liability**. If and when included within the term "**Tenant**," as used in this instrument, there is more than one person or entity, each shall be jointly and severally liable for the obligations of Tenant.

(c) **Financial Information**. Tenant shall furnish Landlord with true and complete copies of (i) Tenant's most recent audited annual financial statements within 90 days of the end of each of Tenant's fiscal years during the Term, (ii) Tenant's most recent unaudited quarterly financial statements within 45 days of the end of each of Tenant's first three fiscal quarters of each of Tenant's fiscal years during the Term, (iii) at Landlord's request from time to time, updated business plans, including cash flow projections and/or pro forma balance sheets and income statements, all of which shall be treated by Landlord as confidential information belonging to Tenant, (iv) corporate brochures and/or profiles prepared by Tenant for prospective investors, and (v) any other financial information or summaries that Tenant typically provides to its lenders or shareholders. Notwithstanding the foregoing, in no event shall Tenant be required to provide any financial information described in clauses (iii), (iv) and (v) of the preceding sentence to Landlord if Tenant does not otherwise prepare (or cause to be prepared) such information for its own purposes. So long as Tenant is a "public company" and its financial information is publicly available, then the foregoing delivery requirements of this Section 43(c) shall not apply.

(d) **Recordation**. Neither this Lease nor a memorandum of lease shall be filed by or on behalf of Tenant in any public record; provided, however, nothing herein shall prevent Tenant from filing all or any portion of this Lease with the SEC if required by Legal Requirements to do so, as reasonably determined by Tenant. Landlord may prepare and file, and upon request by Landlord Tenant will execute, a memorandum of lease.

(e) **Interpretation**. The normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Lease or any exhibits or amendments hereto. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context

otherwise requires. The captions inserted in this Lease are for convenience only and in no way define, limit or otherwise describe the scope or intent of this Lease, or any provision hereof, or in any way affect the interpretation of this Lease.

(f) **Not Binding Until Executed**. The submission by Landlord to Tenant of this Lease shall have no binding force or effect, shall not constitute an option for the leasing of the Premises, nor confer any right or impose any obligations upon either party until execution of this Lease by both parties.

(g) **Limitations on Interest**. It is expressly the intent of Landlord and Tenant at all times to comply with applicable law governing the maximum rate or amount of any interest payable on or in connection with this Lease. If applicable law is ever judicially interpreted so as to render usurious any interest called for under this Lease, or contracted for, charged, taken, reserved, or received with respect to this Lease, then it is Landlord's and Tenant's express intent that all excess amounts theretofore collected by Landlord be credited on the applicable obligation (or, if the obligation has been or would thereby be paid in full, refunded to Tenant), and the provisions of this Lease immediately shall be deemed reformed and the amounts thereafter collectible hereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder.

(h) **Choice of Law**. Construction and interpretation of this Lease shall be governed by the internal laws of the state in which the Premises are located, excluding any principles of conflicts of laws.

(i) **Time**. Time is of the essence as to the performance of Tenant's and Landlord's obligations under this Lease.

(j) **Incorporation by Reference**. All exhibits and addenda attached hereto are hereby incorporated into this Lease and made a part hereof. If there is any conflict between such exhibits or addenda and the terms of this Lease, such exhibits or addenda shall control.

(k) **Entire Agreement**. This Lease, including the exhibits attached hereto, constitutes the entire agreement between Landlord and Tenant pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, letters of intent, negotiations and discussions, whether oral or written, of the parties, and there are no warranties, representations or other agreements, express or implied, made to either party by the other party in connection with the subject matter hereof except as specifically set forth herein.

(l) **Hazardous Activities**. Notwithstanding any other provision of this Lease, Landlord, for itself and its employees, agents and contractors, reserves the right to refuse to perform any repairs or services in any portion of the Premises which, pursuant to Tenant's routine safety guidelines, practices or custom or prudent industry practices, require any form of protective clothing or equipment other than safety glasses. In any such case, Tenant shall contract with parties who are acceptable to Landlord, in Landlord's reasonable discretion, for all such repairs and services, and Landlord shall, to the extent required, equitably adjust Tenant's Share of Operating Expenses in respect of such repairs or services to reflect that Landlord is not providing such repairs or services to Tenant.

(m) **Mission Bay Requirements**. Tenant acknowledges and agrees that the use and operation of the Project are governed by, among other things, the requirements and disclosures set forth on **Exhibit H** attached hereto.

(n) Except as expressly provided for in Section 8, neither Landlord nor Tenant shall be liable for any consequential, special, indirect or punitive damages in connection herewith.

(o) **Signage Restriction**. Landlord shall not place signage with the name of any other life sciences/pharmaceutical company other than Tenant on the west wing of the Building but Landlord shall have the right to place signage with the name of any other life sciences/pharmaceutical company or any

other party on the east wing of the Building until such time (and for so long) as Tenant then leases and occupies all of the ROFO Space.

(p) **Roof**. Tenant shall have the right to use: (i) approximately 15 square feet of space on the roof of the West Wing of the Building in a location designated by Landlord (and Landlord hereby approves the location of Tenant's existing roof-top equipment installed pursuant to the Pfizer Sublease), and (ii) approximately 15 square feet of space on the roof of the East Wing of the Building in a location designated by Landlord, in each case for the purpose of installing, operating, and maintaining telecommunications dish antennas or other communication devices solely for Tenant's own communication purposes; provided, however, that the rights granted herein are subject to the provisions of **Exhibit J** attached hereto.

(q) Tenant may install: (i) telecommunication lines ("**Lines**") connecting the Premises to any terminal block on the floor or floors on which the Premises are located and use any such Lines as may currently exist and already connect the Premises to any such terminal block, (ii) applicable telephone and data system standards, [including 10 Base T and EIA/TIA Commercial Building Wiring Standard], (iii) station cables routed to wall outlets in return-air plenum areas, (iv) station cables to floor monuments, and (v) copper twisted pair cables, jumper wires and patch cables used in connection with Tenant's installations. Upon Landlord's request, Tenant shall remove all of the foregoing and repair any damage prior to the expiration or earlier termination of this Lease.

(r) Tenant, its employees, guests and invitees shall, subject to compliance with the Building security procedures, have access to the Premises, Building and Project 24 hours per day/7 days per week, except in the case of emergency.

(s) **OFAC**. Each of Landlord and Tenant is currently (a) in compliance with and shall at all times during the Term of this Lease remain in compliance with the regulations of the Office of Foreign Assets Control ("**OFAC**") of the U.S. Department of Treasury and any statute, executive order, or regulation relating thereto (collectively, the "**OFAC Rules**"), (b) not listed on, and shall not during the term of this Lease be listed on, the Specially Designated Nationals and Blocked Persons List maintained by OFAC and/or on any other similar list maintained by OFAC or other governmental authority pursuant to any authorizing statute, executive order, or regulation, and (c) not a person or entity with whom a U.S. person is prohibited from conducting business under the OFAC Rules.

(t) **Building Management System**. Within a reasonable period following written request from Tenant, Landlord shall conduct an analysis to determine the feasibility of combining the Building under a single Building management system reasonably acceptable to Landlord and Tenant. Tenant shall reimburse Landlord for 50% of the cost of such analysis within 30 days after receipt of an invoice with respect thereto. In the event Landlord and Tenant mutually agree to proceed with implementing the combination of the Building under a single Building management system, then Landlord shall proceed with such implementation and Landlord and Tenant shall equally split the costs for such implementation.

(u) **EV Charging Stations**. Landlord shall not unreasonably withhold its consent to Tenant's written request to install 1 or more electric vehicle car charging stations ("**EV Stations**") in the parking area serving the Project; provided, however, that Tenant complies with all reasonable requirements, standards, rules and regulations which may be imposed by Landlord, at the time Landlord's consent is granted, in connection with Tenant's installation, maintenance, repair and operation of such EV Stations, which may include, without limitation, the charge to Tenant of a reasonable monthly rental amount for the parking spaces used by Tenant for such EV Stations, Landlord's designation of the location of Tenant's EV Stations, and Tenant's payment of all costs whether incurred by Landlord or Tenant in connection with the installation, maintenance, repair and operation of each Tenant's EV Station(s). Nothing contained in this paragraph is intended to increase the number of parking spaces which Tenant is otherwise entitled to use at the Project under Section 10 of this Lease nor impose any additional obligations on Landlord with respect to Tenant's parking rights at the Project. Tenant shall have no obligation to install an EV Station.

(v) **California Accessibility Disclosure**. For purposes of Section 1938(a) of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that the Project has not undergone inspection by a Certified Access Specialist (CASp). In addition, the following notice is hereby provided pursuant to Section 1938(e) of the California Civil Code: "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 furtherance of and in connection with such notice: (i) Tenant, having read such notice and understanding Tenant's right to request and obtain a CASp inspection, hereby elects not to obtain such CASp inspection and forever waives its rights to obtain a CASp inspection with respect to the Premises, Building and/or Project to the extent permitted by Legal Requirements; and (ii) if the waiver set forth in clause (i) hereinabove is not enforceable pursuant to Legal Requirements, then Landlord and Tenant hereby agree as follows (which constitutes the mutual agreement of the parties as to the matters described in the last sentence of the foregoing notice): (A) Tenant shall have the one-time right to request for and obtain a CASp inspection, which request must be made, if at all, in a written notice delivered by Tenant to Landlord; (B) any CASp inspection timely requested by Tenant shall be conducted (1) at a time mutually agreed to by Landlord and Tenant, (2) in a professional manner by a CASp designated by Landlord and without any testing that would damage the Premises, Building or Project in any way, and (3) at Tenant's sole cost and expense, including, without limitation, Tenant's payment of the fee for such CASp inspection, the fee for any reports prepared by the CASp in connection with such CASp inspection (collectively, the "**CASp Reports**") and all other costs and expenses in connection therewith; (C) the CASp Reports shall be delivered by the CASp simultaneously to Landlord and Tenant; (D) Tenant, at its sole cost and expense, shall be responsible for making any improvements, alterations, modifications and/or repairs to or within the Premises to correct violations of construction-related accessibility standards including, without limitation, any violations disclosed by such CASp inspection; and (E) if such CASp inspection identifies any improvements, alterations, modifications and/or repairs necessary to correct violations of construction-related accessibility standards relating to those items of the Building and Project located outside the Premises that are Landlord's obligation to repair as set forth in this Lease, then Landlord shall perform such improvements, alterations, modifications and/or repairs as and to the extent required by Legal Requirements to correct such violations, and Tenant shall reimburse Landlord for the cost of such improvements, alterations, modifications and/or repairs within 10 business days after Tenant's receipt of an invoice therefor from Landlord.

(w) **Counterparts**. This Lease (including the exhibits attached hereto) may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Lease attached thereto.

[Signatures on next page]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

TENANT:

NEKTAR THERAPEUTICS,
a Delaware corporation

By:/s/ Gil M. Labrucherie
Its: SVP & Chief Financial Officer

LANDLORD:

ARE-SAN FRANCISCO NO. 19, LLC,
a Delaware limited liability company

By: ALEXANDRIA REAL ESTATE EQUITIES, L.P.,
a Delaware limited partnership,
its managing member

By: ARE-QRS CORP.,
a Maryland corporation,
its general partner

By:/s/ Gary Dean
Its: Senior vice President RE Legal Affairs

EXHIBIT A TO LEASE

DESCRIPTION OF PREMISES

EXHIBIT B TO LEASE

CURRENT LEGAL DESCRIPTION OF PROPERTY

REAL PROPERTY IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1:

LOTS 19, 20, AND 21, AS SAID LOTS ARE SHOWN ON THAT CERTAIN MAP ENTITLED “FINAL MAP 4141, PLANNED DEVELOPMENT MISSION BAY (26 28), BEING PHASE 2 OF A SUBDIVISION OF LOT 1 OF ASSESSOR’S BLOCK 8721, AS SHOWN ON THAT CERTAIN MAP ENTITLED ‘MAP OF MISSION BAY’ RECORDED ON JULY 19, 1999 IN BOOK Z OF MAPS AT PAGES 97-119 IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA AND BEING MORE PARTICULARLY A SUBDIVISION OF LOT 12 AS SHOWN ON THAT CERTAIN MAP ENTITLED ‘PARCEL MAP – PLANNED DEVELOPMENT MISSION BAY’ RECORDED ON DECEMBER 7, 2000 IN BOOK 44 OF PARCEL MAPS AT PAGES 151-155 IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA”, FILED OCTOBER 16, 2007, IN BOOK BB OF MAPS AT PAGES 179 TO 183, INCLUSIVE, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA.

PARCEL 2:

ALL STREETS AND STREET LINES HEREINAFTER MENTIONED ARE IN ACCORDANCE WITH THAT CERTAIN MAP ENTITLED “RECORD OF SURVEY MAP OF MISSION BAY”, RECORDED JULY 28, 1992, MAP BOOK “Y” AT PAGES 62-82 (REEL F679, IMAGE 620), IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AS AMENDED JUNE 3, 1999, MAP BOOK “Z” AT PAGES 74-94 (REEL H398, IMAGE 0829), INCLUSIVE, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, ENTITLED “AMENDED RECORD OF SURVEY (Y MAPS 62-82) OF MISSION BAY, SAN FRANCISCO, CALIFORNIA” AS AMENDED BY CERTIFICATE OF CORRECTIONS H570 O.R. 413.

ALL OF THE SOUTHERLY 24.25 FEET OF FORMER MERRIMAC STREET (66.00 FEET WIDE; AS SAID STREET EXISTED PRIOR TO THE VACATION OF A PORTION THEREOF BY ORDINANCE NO. 217-63 ADOPTED AUGUST 19, 1963, BY THE BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA; LYING BETWEEN THE EASTERLY LINE OF THIRD STREET (100.00 FEET WIDE) AND A LINE DRAWN PARALLEL WITH AND PERPENDICULARLY DISTANT EASTERLY 74.00 FEET FROM SAID EASTERLY LINE OF THIRD STREET.

PARCEL 3:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF MERRIMAC STREET WITH THE PRESENT EASTERLY LINE OF THIRD STREET, AS WIDENED; RUNNING THENCE SOUTHERLY ALONG SAID LINE OF THIRD STREET, 30 FEET; THENCE AT A RIGHT ANGLE EASTERLY 74 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 30 FEET TO THE SOUTHERLY LINE OF MERRIMAC STREET; THENCE AT A RIGHT ANGLE WESTERLY ALONG SAID LINE OF MERRIMAC STREET, 74 FEET TO THE POINT OF BEGINNING.

[The foregoing legal descriptions do not include any exceptions or reservations or any easements or other rights that may be appurtenant to any such real property]

EXHIBIT C TO LEASE

WORK LETTER

THIS WORK LETTER (this "**Work Letter**") is made and entered into as of August 4, 2017, by and between **ARE-SAN FRANCISCO NO. 19, LLC**, a Delaware limited liability company ("**Landlord**"), and **NEKTAR THERAPEUTICS**, a Delaware corporation ("**Tenant**"), and is attached to and made a part of that certain Lease Agreement of the same date (the "**Lease**"). Any initially capitalized terms used but not defined herein shall have the meanings given them in the Lease.

1. **General Requirements**.

(a) **Tenant's Authorized Representative**. Tenant designates Robert Bacci ("**Tenant's Representative**") as the only person authorized to act for Tenant pursuant to this Work Letter. Landlord shall not be obligated to respond to or act upon any request, approval, inquiry or other communication ("**Communication**") from or on behalf of Tenant in connection with this Work Letter unless such Communication is in writing from Tenant's Representative. Tenant may change Tenant's Representative at any time upon not less than 5 business days advance written notice to Landlord.

(b) **Landlord's Authorized Representative**. Landlord designates Greg Gehlen and Jason Beck (either such individual acting alone, "**Landlord's Representative**") as the only persons authorized to act for Landlord pursuant to this Work Letter. Tenant shall not be obligated to respond to or act upon any request, approval, inquiry or other Communication from or on behalf of Landlord in connection with this Work Letter unless such Communication is in writing from Landlord's Representative. Landlord may change either Landlord's Representative at any time upon not less than 5 business days advance written notice to Tenant.

(c) **Architects, Consultants and Contractors**. Landlord and Tenant hereby acknowledge and agree that the architect (the "**TI Architect**") for the Tenant Improvements (as defined in Section 2(a) below), the general contractor and any subcontractors for the Tenant Improvements shall be selected by Tenant, subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Landlord shall be named a third party beneficiary of any contract entered into by Tenant with the TI Architect, any consultant, any contractor or any subcontractor, and of any warranty made by any contractor or any subcontractor.

2. **Tenant Improvements**.

(a) **Tenant Improvements Defined**. As used herein, "**Tenant Improvements**" shall mean all improvements to the Premises desired by Tenant of a fixed and permanent nature. Other than funding the TI Allowance (as defined below) as provided herein, Landlord shall not have any obligation whatsoever with respect to the finishing of the Premises for Tenant's use and occupancy.

(b) **Tenant's Space Plans**. Tenant shall cause the TI Architect to prepare and deliver to Landlord for review and comment space plans, specifications and drawings for the Tenant Improvements ("**TI Conceptual Drawings**"). Tenant shall be solely responsible for ensuring that the TI Conceptual Drawings reflect Tenant's requirements for the Tenant Improvements. Landlord shall deliver its written comments on the TI Conceptual Drawings to Tenant not later than ten (10) business days after Landlord's receipt of the same. If Landlord fails to notify Tenant of Landlord's approval or approval with comments of the TI Conceptual Drawings within such ten (10) business day period, Tenant shall have the right to provide Landlord with a second written request for approval (a "**Second Request**") that specifically identifies the TI Conceptual Drawings and contains the following statement in bold and capital letters: "**THIS IS A SECOND REQUEST FOR APPROVAL PURSUANT TO THE PROVISIONS OF SECTION 2(b) OF THE WORK LETTER ATTACHED TO THE LEASE. IF LANDLORD FAILS TO RESPOND WITHIN FIVE (5) BUSINESS DAYS AFTER RECEIPT OF THIS NOTICE, THEN LANDLORD SHALL BE DEEMED TO HAVE APPROVED THE TI CONCEPTUAL DRAWINGS**." If Landlord fails to respond to such Second

Request within five (5) business days after receipt by Landlord, the TI Conceptual Drawings shall be deemed approved by Landlord. Tenant and the TI Architect shall consider all such comments in good faith and shall, within ten (10) business days after receipt, notify Landlord how Tenant proposes to respond to such comments. Any disputes in connection with such comments shall be resolved in accordance with Section 2(e) hereof.

(c) **TI Design Drawings**. On or before the date which is sixty (60) days following Landlord's approval of the TI Conceptual Drawings, Tenant shall cause the TI Architect to prepare and deliver to Landlord for review and comment construction plans, specifications and drawings for the Tenant Improvements ("**TI Design Drawings**"), which TI Design Drawings shall be prepared substantially in accordance with the TI Conceptual Drawings. Tenant shall be solely responsible for ensuring that the TI Design Drawings reflect Tenant's requirements for the Tenant Improvements. Landlord shall deliver its written comments on the TI Design Drawings to Tenant not later than 10 days after Landlord's receipt of the same; provided, however, that Landlord may not disapprove any matter that is consistent with the TI Conceptual Drawings. If Landlord fails to notify Tenant of Landlord's approval or approval with comments of the TI Design Drawings within such ten (10) day period, Tenant shall have the right to provide Landlord with a second written request for approval (a "**Second Request**") that specifically identifies the TI Design Drawings and contains the following statement in bold and capital letters: "**THIS IS A SECOND REQUEST FOR APPROVAL PURSUANT TO THE PROVISIONS OF SECTION 2(c) OF THE WORK LETTER ATTACHED TO THE LEASE. IF LANDLORD FAILS TO RESPOND WITHIN FIVE (5) BUSINESS DAYS AFTER RECEIPT OF THIS NOTICE, THEN LANDLORD SHALL BE DEEMED TO HAVE APPROVED THE TI DESIGN DRAWINGS**." If Landlord fails to respond to such Second Request within five (5) business days after receipt by Landlord, the TI Design Drawings shall be deemed approved by Landlord. Tenant and the TI Architect shall consider all such comments in good faith and shall, within 10 days after receipt, notify Landlord how Tenant proposes to respond to such comments. Any disputes in connection with such comments shall be resolved in accordance with Section 2(e) hereof. Provided that the design reflected in the TI Design Drawings is consistent with the TI Conceptual Drawings, Landlord shall approve the TI Design Drawings submitted by Tenant.

(d) **Working Drawings**. On or before the date which is sixty (60) days following Landlord's approval of the TI Design Drawings, Tenant shall cause the TI Architect to prepare and deliver to Landlord for review and comment construction plans, specifications and drawings for the Tenant Improvements ("**TI Construction Drawings**"), which TI Construction Drawings shall be prepared substantially in accordance with the TI Design Drawings. Tenant shall be solely responsible for ensuring that the TI Construction Drawings reflect Tenant's requirements for the Tenant Improvements. Landlord shall deliver its written comments on the TI Construction Drawings to Tenant not later than 10 business days after Landlord's receipt of the same; provided, however, that Landlord may not disapprove any matter that is consistent with the TI Design Drawings. If Landlord fails to notify Tenant of Landlord's approval or approval with comments of the TI Construction Drawings within such ten (10) business day period, Tenant shall have the right to provide Landlord with a second written request for approval (a "**Second Request**") that specifically identifies the TI Construction Drawings and contains the following statement in bold and capital letters: "**THIS IS A SECOND REQUEST FOR APPROVAL PURSUANT TO THE PROVISIONS OF SECTION 2(d) OF THE WORK LETTER ATTACHED TO THE LEASE. IF LANDLORD FAILS TO RESPOND WITHIN FIVE (5) BUSINESS DAYS AFTER RECEIPT OF THIS NOTICE, THEN LANDLORD SHALL BE DEEMED TO HAVE APPROVED THE TI CONSTRUCTION DRAWINGS**." If Landlord fails to respond to such Second Request within five (5) business days after receipt by Landlord, the TI Construction Drawings shall be deemed approved by Landlord. Tenant and the TI Architect shall consider all such comments in good faith and shall, within 10 business days after receipt, notify Landlord how Tenant proposes to respond to such comments. Any disputes in connection with such comments shall be resolved in accordance with Section 2(e) hereof. Provided that the design reflected in the TI Construction Drawings is consistent with the TI Design Drawings, Landlord shall approve the TI Construction Drawings submitted by Tenant. Once approved by Landlord, subject to the provisions of Section 4 below, Tenant shall not materially modify the TI Construction Drawings except as may be reasonably required in connection with the issuance of the TI Permit (as defined in Section 3(a) below).

(e) **Approval and Completion**. If any dispute regarding the design of the Tenant Improvements is not settled within 10 business days after notice of such dispute is delivered by one party to the other, Tenant may make the final decision regarding the design of the Tenant Improvements, provided (i) Tenant acts reasonably and such final decision is either consistent with or a compromise between Landlord's and Tenant's positions with respect to such dispute, (ii) that all costs and expenses resulting from any such decision by Tenant shall be payable by Tenant (subject to reimbursement from the TI Allowance), and (iii) Tenant's decision will not affect the base Building, structural components of the Building or any Building systems (in which case Landlord shall make the final decision). Any changes to the TI Construction Drawings following Landlord's and Tenant's approval of same requested by Tenant shall be processed as provided in Section 4 hereof.

3. **Performance of the Tenant Improvements**.

(a) **Commencement and Permitting of the Tenant Improvements**. Tenant shall commence construction of the Tenant Improvements promptly following the date on which Tenant obtains and delivers to Landlord a building permit (the "**TI Permit**") authorizing the construction of the Tenant Improvements consistent with the TI Construction Drawings approved by Landlord. The cost of obtaining the TI Permit shall be considered as a TI Cost. Landlord shall assist Tenant in obtaining the TI Permit. Prior to the commencement of the Tenant Improvements, Tenant shall deliver to Landlord a copy of any contract with Tenant's contractors (including the TI Architect), and certificates of insurance from any contractor performing any part of the Tenant Improvement evidencing industry standard commercial general liability, automotive liability, "builder's risk", and workers' compensation insurance. Tenant shall cause the general contractor to provide a certificate of insurance naming Landlord, Alexandria Real Estate Equities, Inc., and Landlord's lender (if any) as additional insureds for the general contractor's liability coverages required above.

(b) **Selection of Materials, Etc**. Where more than one type of material or structure is indicated on the TI Construction Drawings approved by Tenant and Landlord, the option will be within Tenant's reasonable discretion if the matter concerns the Tenant Improvements, and within Landlord's sole and absolute subjective discretion if the matter concerns the structural components of the Building or any Building system.

(c) **Tenant Liability**. Tenant shall be responsible for correcting any deficiencies or defects in the Tenant Improvements.

(d) **Substantial Completion**. Tenant shall substantially complete or cause to be substantially completed the Tenant Improvements in a good and workmanlike manner, in accordance with the TI Permit subject, in each case, to Minor Variations and normal "punch list" items of a non-material nature which do not interfere with the use of the Premises ("**Substantial Completion**" or "**Substantially Complete**"). Upon Substantial Completion of the Tenant Improvements, Tenant shall require the TI Architect and the General Contractor to execute and deliver, for the benefit of Tenant and Landlord, a Certificate of Substantial Completion in the form of the American Institute of Architects ("**AIA**") document G704. For purposes of this Work Letter, "**Minor Variations**" shall mean any modifications reasonably required: (i) to comply with all applicable Legal Requirements and/or to obtain or to comply with any required permit (including the TI Permit); (ii) to comport with good design, engineering, and construction practices which are not material; or (iii) to make reasonable adjustments for field deviations or conditions encountered during the construction of the Tenant Improvements.

4. **Changes**. Any changes requested by Tenant to the Tenant Improvements after the delivery and approval by Landlord of the TI Construction Drawings, shall be requested and instituted in accordance with the provisions of this Section 4 and shall be subject to the written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed.

(a) **Tenant's Right to Request Changes**. If Tenant shall request changes ("**Changes**"), Tenant shall request such Changes by notifying Landlord in writing in substantially the same form as the

AIA standard change order form (a "**Change Request**"), which Change Request shall detail the nature and extent of any such Change. Such Change Request must be signed by Tenant's Representative. Landlord shall review and approve or disapprove such Change Request within 10 days thereafter, provided that Landlord's approval shall not be unreasonably withheld, conditioned or delayed.

(b) **Implementation of Changes**. If Landlord approves such Change, Tenant may cause the approved Change to be instituted. If any TI Permit modification or change is required as a result of such Change, Tenant shall promptly provide Landlord with a copy of such TI Permit modification or change.

5. **Costs**.

(a) **Budget For Tenant Improvements**. Before the commencement of construction of the Tenant Improvements, Tenant shall obtain a detailed breakdown, by trade, of the costs incurred or that will be incurred, in connection with the design and construction of the Tenant Improvements (the "**Budget**"), and deliver a copy of the Budget to Landlord for Landlord's approval, which shall not be unreasonably withheld or delayed. The Budget shall be based upon the TI Construction Drawings approved by Landlord and shall include a payment to Landlord of administrative rent ("**Administrative Rent**") equal to 1% of the Hard Costs of the TI Costs (as hereinafter defined) for monitoring and inspecting the construction of the Tenant Improvements. Such Administrative Rent shall include, without limitation, all out-of-pocket costs, expenses and fees incurred by or on behalf of Landlord arising from, out of, or in connection with, such monitoring of the construction of the Tenant Improvements.

(b) **Allowance**. Landlord shall provide to Tenant a tenant improvement allowance ("**TI Allowance**") of $20.00 per rentable square foot of the original Premises (i.e. 128,793 rentable square feet) leased hereunder, or $2,575,860 in the aggregate. The TI Allowance shall be disbursed in accordance with this Work Letter. Subject to Section 2 of the Lease, the TI Allowance shall be available to Tenant immediately thereafter even though the Commencement Date of the Lease is not scheduled to occur until February 1, 2020.

Tenant shall have no right to the use or benefit (including any reduction to Base Rent) of any portion of the TI Allowance not required for the construction of (i) the Tenant Improvements described in the TI Construction Drawings approved pursuant to Section 2(d) or (ii) any Changes pursuant to Section 4. Tenant shall have no right to any portion of the TI Allowance that is not disbursed in connection with the Tenant Improvements on or before November 30, 2021.

(c) **Excess TI Costs**. As used herein, "**TI Costs**" shall mean the entire cost of performing the Tenant Improvements (including design of the Tenant Improvements and preparation of any working drawings, costs of construction labor and materials, related taxes and insurance costs, and the Administrative Rent. Landlord shall have no obligation to bear any portion of the cost of any of the Tenant Improvements except to the extent of the TI Allowance. If at any time and from time-to-time, the remaining TI Costs under the Budget exceed the remaining unexpended TI Allowance, Tenant shall be responsible for paying 100% of the then current TI Cost in excess of the TI Allowance (the "**Excess Costs**"). Notwithstanding anything to the contrary set forth in this Section 5(c), Tenant shall be fully and solely liable for TI Costs and the cost of Minor Variations in excess of the TI Allowance, if any.

(d) **Payment for TI Costs**. Landlord shall pay amounts not to exceed the amount of the TI Allowance to the contractors directly once a month against a draw request in Landlord's standard form, containing evidence of payment of such TI Costs by Tenant and such certifications, lien waivers (including a conditional lien release for each progress payment and unconditional lien releases for the prior month's progress payments), inspection reports and other matters as Landlord customarily obtains, to the extent of Landlord's approval thereof for payment, no later than 30 days following receipt of such draw request. Upon completion of the Tenant Improvements, Tenant shall deliver to Landlord: (i) sworn statements setting forth the names of all contractors and first tier subcontractors who did the work and final, unconditional lien waivers from all such contractors and first tier subcontractors; (ii) as-built plans (one copy in print format and two copies in electronic CAD format) for such Tenant Improvements; (iii) a certification of substantial

completion in Form AIA G704, (iv) a certificate of occupancy for the Premises (to the extent required by applicable law); and (v) copies of all operation and maintenance manuals and warranties affecting the Premises.

6. **Miscellaneous**.

(a) **Consents**. Whenever consent or approval of either party is required under this Work Letter, that party shall not unreasonably withhold, condition or delay such consent or approval, except as may be expressly set forth herein to the contrary.

(b) **Modification**. No modification, waiver or amendment of this Work Letter or of any of its conditions or provisions shall be binding upon Landlord or Tenant unless in writing signed by Landlord and Tenant.

EXHIBIT D TO LEASE

ACKNOWLEDGMENT OF COMMENCEMENT DATE

This **ACKNOWLEDGMENT OF COMMENCEMENT DATE** is made this _____ day of _____, _____, between **ARE-SAN FRANCISCO NO. 19, LLC**, a Delaware limited liability company ("**Landlord**"), and **NEKTAR THERAPEUTICS**, a Delaware corporation ("**Tenant**"), and is attached to and made a part of the Lease dated _____, 2017 (the "**Lease**"), by and between Landlord and Tenant. Any initially capitalized terms used but not defined herein shall have the meanings given them in the Lease.

Landlord and Tenant hereby acknowledge and agree, for all purposes of the Lease, that the Commencement Date of the Base Term of the Lease is February 1, 2020, and the termination date of the Base Term of the Lease shall be midnight on January 31, 2030. In case of a conflict between the terms of the Lease and the terms of this Acknowledgment of Commencement Date, this Acknowledgment of Commencement Date shall control for all purposes.

[Landlord and Tenant hereby acknowledge and agree, for all purposes of the Lease, that the Space ___ Commencement Date is _____, 201__, and the Space __ Rent Commencement Date is 201_. In case of a conflict between the terms of the Lease and the terms of this Acknowledgment of Commencement Date, this Acknowledgment of Commencement Date shall control for all purposes.]

IN WITNESS WHEREOF, Landlord and Tenant have executed this ACKNOWLEDGMENT OF COMMENCEMENT DATE to be effective on the date first above written.

TENANT:

NEKTAR THERAPEUTICS,
a Delaware corporation

By:
Its:

LANDLORD:

ARE-SAN FRANCISCO NO. 19, LLC,
a Delaware limited liability company

By: ALEXANDRIA REAL ESTATE EQUITIES, L.P.,
a Delaware limited partnership,
its managing member

By: ARE-QRS CORP.,
a Maryland corporation,
its general partner

By:

Its:

EXHIBIT E TO LEASE

Rules and Regulations

1. The sidewalk, entries, and driveways of the Project shall not be obstructed by Tenant, or any Tenant Party, or used by them for any purpose other than ingress and egress to and from the Premises.

2. Other than as expressly provided for in this Lease, Tenant shall not place any objects, including antennas, outdoor furniture, etc., in the parking areas, landscaped areas or other areas outside of its Premises, or on the roof of the Project.

3. Tenant shall not disturb the occupants of the Project or adjoining buildings by the use of any radio or musical instrument or by the making of loud or improper noises.

4. If Tenant desires telephonic or other electric connections in the Premises, Landlord or its agent will direct the electrician as to where and how the wires may be introduced; and, without such direction, no boring or cutting of wires will be permitted other than in connection with approved Alterations or Tenant Improvements. Any such installation or connection shall be made at Tenant's expense.

5. Tenant shall not install or operate any steam or gas engine or boiler, or other mechanical apparatus in the Premises, except as specifically approved in the Lease. The use of oil, gas or inflammable liquids for heating, lighting or any other purpose is expressly prohibited. Explosives or other articles deemed extra hazardous shall not be brought into the Project.

6. Parking any type of recreational vehicles is specifically prohibited on or about the Project. Except for the overnight parking of operative vehicles, no vehicle of any type shall be stored in the parking areas at any time. In the event that a vehicle is disabled, it shall be removed within 48 hours. There shall be no "For Sale" or other advertising signs on or about any parked vehicle. All vehicles shall be parked in the designated parking areas in conformity with all signs and other markings. All parking will be open parking, and no reserved parking, numbering or lettering of individual spaces will be permitted except as specified by Landlord.

7. Landlord reserves the right to exclude or expel from the Project any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs or who shall in any manner do any act in material violation of the Rules and Regulations of the Project.

8. Intentionally Omitted.

9. Tenant shall give Landlord prompt notice of any defects in the water, lawn sprinkler, sewage, gas pipes, electrical lights and fixtures, heating apparatus, or any other service equipment affecting the Premises.

10. Tenant shall not permit storage outside the Premises, including without limitation, outside storage of trucks and other vehicles, or dumping of waste or refuse or permit any harmful materials to be placed in any drainage system or sanitary system in or about the Premises.

11. All moveable trash receptacles provided by the trash disposal firm for the Premises must be kept in the trash enclosure areas, if any, provided for that purpose.

12. No auction, public or private, will be permitted on the Premises or the Project.

13. No awnings shall be placed over the windows in the Premises except with the prior written consent of Landlord.

14. The Premises shall not be used for lodging or sleeping or for any immoral or illegal purposes or for any purpose other than that specified in the Lease. No gaming devices shall be operated in the Premises. Tenant may use equipment that brews coffee, tea, hot chocolate and similar beverages and may use microwave ovens for employee use in the Premises as well as a commercial kitchen for its employees and invitees.

15. Tenant shall ascertain from Landlord the maximum amount of electrical current which can safely be used in the Premises, taking into account the capacity of the electrical wiring in the Project and the Premises and the needs of other tenants, and shall not use more than such safe capacity. Landlord's consent to the installation of electric equipment shall not relieve Tenant from the obligation not to use more electricity than such safe capacity.

16. Tenant shall not install or operate on the Premises any machinery or mechanical devices of a nature not directly related to Tenant's Permitted Use of the Premises and shall keep all such machinery reasonably free of vibration, noise and air waves which may be transmitted beyond the Premises.

EXHIBIT F TO LEASE

TENANT'S PERSONAL PROPERTY

EXHIBIT G TO LEASE

PARKING

[To be attached upon creation of Landlord's TMP plan]

EXHIBIT H TO LEASE

MISSION BAY REQUIREMENTS

NOTICES AND RESTRICTIONS
APPLICABLE TO MISSION BAY REDEVELOPMENT AREA

1. Environmental Covenant. The Project may contain hazardous materials in soils and in the ground water under the Project, and is subject to a deed restriction (Covenant and Environmental Restriction on Property) dated as of February 23, 2000, and recorded in the Official Records of the City and County of San Francisco, California (the "Official Records") on March 21, 2000, as Document No. 2000-G748552 (the "Environmental Covenant"), which Environmental Covenant imposes certain covenants, conditions, and restrictions on usage of the Project. The foregoing statement is required by the Environmental Covenant and is not a declaration that a hazard exists. The Environmental Covenant references and requires compliance with the provisions of the Risk Management Plan, Mission Bay Area, San Francisco, California, dated May 11, 1999 (the "RMP"). Tenant hereby acknowledges receipt of a copy of the RMP, and hereby covenants (i) to comply with the RMP (to the extent the RMP applies to Tenant's activities), (ii) to obligate other entities with which Tenant contracts for construction, property maintenance, or other activities that may disturb soil or groundwater to comply with the applicable provisions of the RMP, and (iii) to refrain (and to cause the entities with which it so contracts to refrain) from interfering with Landlord's compliance with the RMP.

2. Special Tax Acknowledgment. In accordance with Section 53341.5 of the California Government Code, Tenant previously has delivered to Landlord acknowledgments, duly executed by Tenant, confirming that Tenant has been advised of the terms and conditions of the "CFDs" (as defined below), including that the Project is subject to the "CFD Assessments" (as defined below). As used herein, (a) "CFDs" shall mean, collectively, (i) the Redevelopment Agency of the City and County of San Francisco (the "Redevelopment Agency") Community Facilities District No. 5 (Mission Bay Maintenance District) (the "Maintenance CFD") (established to pay a portion of the costs of ongoing maintenance of open space parcels in Mission Bay), (ii) the Redevelopment Agency Community Facilities District No. 6 (Mission Bay South Public Improvements) (the "Infrastructure CFD") (established to pay a portion of the costs of constructing and installing public infrastructure in Mission Bay), and (iii) the San Francisco Unified School District of the City and County of San Francisco Community Facilities District No. 90-1 (Public School Facilities) (the "Public School CFD") (established to pay a portion of the costs of acquiring and/or constructing public school facilities), and (b) "CFD Assessments" shall mean the special taxes (i) to be levied on the Project and other property in Mission Bay in accordance with the terms and conditions of the "Rate and Method of Apportionment of Special Tax" applicable to the Infrastructure CFD and the Maintenance CFD, respectively, and (ii) to be levied on the Project and other property in accordance with the terms and conditions applicable to the Public School CFD. Tenant acknowledges that, pursuant to the CFDs, CFD Assessments may be levied on the Project and that, without limiting the generality of any other provision contained in this Lease, Operating Expenses shall include such CFD Assessments. The form of CFD notices are attached as **Exhibit K** to the Lease.

3. Project Labor Agreement. Tenant has been informed by Landlord of the following: (a) Catellus Development Corporation ("CDC") and the individual members of the San Francisco Building and Construction Trades Council, AFL-CIO ("Council"), originally entered into a certain Mission Bay Project Agreement (the "Original Project Labor Agreement") for the Mission Bay project on October 8, 1990, pursuant to which CDC agreed, to the fullest extent possible, to award all construction contracts in Mission Bay for "Covered Work" (as defined in the Original Project Labor Agreement) to unionized construction firms; and (b) in 2003, CDC and the Council entered into an Addendum to Agreement ("Addendum") that amended certain terms of the Original Project Labor Agreement (the Original Project Labor Agreement, as amended by the Addendum, shall be referred to as the "Project Labor Agreement"), pursuant to which CDC agreed that CDC would require, as a condition of any sale, conveyance, ground lease, or donation of real property covered by the Project Labor Agreement ("Covered Property"), that any and all successors in interest and/or assignees, buyers, ground lessees, or donees (any of the foregoing, a "Covered Successor")

of Covered Property shall require any contractors to which the Covered Successor contracts work that is covered by the Project Labor Agreement to sign and become a party to the Project Labor Agreement through the execution and delivery of a successor project agreement (a "Successor Project Labor Agreement"). Tenant acknowledges that the Project is Covered Property, that Landlord is a Covered Successor, and that Landlord has agreed to require any contractors with whom Landlord contracts work with respect to the Project that is covered by the Project Labor Agreement to sign and become a party to the Project Labor Agreement through the execution and delivery of a Successor Project Labor Agreement (the form of which is attached hereto as **Exhibit I**). Accordingly, Tenant hereby agrees that Tenant shall require any contractors with whom Tenant or any of its contractors contract work with respect to the Project that is covered by the Project Labor Agreement to execute and deliver a Successor Project Labor Agreement. Tenant will cause its general contractor to execute the Successor Project Labor Agreement and shall deliver an executed original of the Successor Project Labor Agreement to Landlord. Following Landlord's receipt of such executed original of the Successor Project Labor Agreement, Landlord shall use commercially reasonable efforts to obtain full execution of the Successor Project Labor Agreement by the union signatories, but Tenant acknowledges that neither Tenant nor Landlord shall have any liability whatsoever if full execution of the Successor Project Labor Agreement is not obtained.

4. First Source Hiring Program. Tenant has been informed by Landlord that there is a City-wide "First Source Hiring Program" (FSHP) (adopted by the City and County of San Francisco on August 3, 1998, Ordinance No. 264-98; codified at San Francisco Administrative Code Sections 83.1-83.1(8)). Tenant hereby acknowledges that its activities with respect to the Project are or may be subject to the FSHP. Accordingly, Tenant shall comply with any provisions of the FSHP that are applicable to the Premises or any construction in, or use or development of, the Premises by Tenant.

5. Non-Discrimination. Without limiting the generality of any other provision of this Lease, there shall be no discrimination against, or segregation of, any person or group of persons or any employee or applicant for employment on account of race, color, creed, religion, sex, marital or domestic partner status, familial status, national origin, ancestry, lawful source of income (as defined in Section 3304 of the San Francisco Police Code), gender identity, sexual orientation, age, or disability (including, without limitation, HIV/AIDS status) in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of any part of the Project, nor shall Tenant or any person claiming under or through Tenant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees in any part of the Project. All deeds, leases, subleases, or contracts concerning the Project shall contain the non-discrimination and non-segregation clauses specified for each type of document in Section 33436 of the California Health and Safety Code (except to the extent any party to any such document is not required by applicable law to include such non-discrimination and non-segregation clauses in such document).

6. Tax Exempt Entities. Tenant acknowledges that it has received and reviewed a certain Tax Payment Agreement dated November 15, 2005, executed and acknowledged on behalf of FOCIL-MB, LLC, and Landlord, recorded in the Official Records on November 15, 2005, as Document No. 2005-I072107. Such Tax Payment Agreement contains certain covenants by Landlord if (a) Landlord (or any successor) becomes an entity that is exempt from property taxation (a "Tax Exempt Entity"), (b) there is any sale, assignment, conveyance, lease, sublease, or other alienation of any portion of the Project to a Tax Exempt Entity, or (c) there is a grant to a Tax Exempt Entity of occupancy rights (such as under a space lease) where, as the result of such grant, all or any portion of any improvements on all or any portion of the Project would or could be exempt from property taxation. Accordingly, notwithstanding any other provision of this Lease, Tenant shall not assign, convey, sublease, or otherwise alienate any portion of the Project to a Tax Exempt Entity, and shall not grant to a Tax Exempt Entity any occupancy rights where, as the result of such grant, all or any portion of any improvements on all or any portion of the Project would or could be exempt from property taxation, without Landlord's prior written consent, which may be withheld in Landlord's sole and absolute discretion. Any such purported action by Tenant without Landlord's prior written consent shall be null and void *ab initio*.

7. Mitigation Measures. Tenant has been informed by Landlord that the Project (along with other property) is subject to the Mitigation Monitoring and Reporting Program for the Mission Bay South Plan Area (including, but not limited to, the Mission Bay South CEQA Mitigation Measures described in Attachment L to the Mission Bay South Owner Participation Agreement between the Redevelopment Agency and CDC dated November 16, 1998, and recorded in the Official Records on December 3, 1998, as Document No. 98-G477258). Tenant shall comply with the following mitigation measures (and with any other mitigation measures that Landlord reasonably determines are applicable to Tenant's operations in the Premises):

(a) Mitigation Measure L01 (*Biohazardous Materials Handling Guidelines*): Require businesses that handle biohazardous materials and do not receive federal funding to certify that they follow the guidelines published by the National Research Council and the U.S. Department of Health and Human Services Public Health Service, National Institutes of Health, and Centers for Disease Control as set forth in Biosafety in Microbiological and Biomedical Laboratories, Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines), and Guide for the Care and Use of Laboratory Animals, or their successors, as applicable.

(b) Mitigation Measure L02 (*Use of HEPA Filters*): Require businesses handling biohazardous materials to certify that they use high efficiency particulate air (HEPA) filters or substantially equivalent devices on all exhaust from Biosafety Level 3 laboratories unless they demonstrate that exhaust from the Biosafety Level 3 laboratories would not pose a substantial health and safety hazards to the public or the environment. Require such businesses to certify that they inspect or monitor the filters regularly to ensure proper functioning.

(c) Mitigation Measure L03 (*Handling of Biohazardous Materials*): Require businesses handling biohazardous materials to certify that they do not handle or use biohazardous materials requiring Biosafety Level 4 containment (i.e., dangerous or exotic materials that pose high risks of life-threatening diseases or aerosol-transmitted infections, or unknown risks of transmission in the Project Area).

EXHIBIT I TO LEASE

SUCCESSOR PROJECT LABOR AGREEMENT

Successor Project Labor Agreement

MISSION BAY

PROJECT AGREEMENT

This Project Agreement ("Agreement") is entered into this _____ day of _____, 2006 by and among _____ (hereinafter referred to as the "Project Contractor"), and the San Francisco Building and Construction Trades Council, AFL-CIO; and affiliated Local Unions whose names are subscribed hereto and who have, through their duly authorized officers, executed this Agreement (hereinafter collectively referred to as the "Union" or the "Unions"). The term Contractor as used in this Agreement includes all contractors and subcontractors of whatever tier. Contractor agrees to comply with the collective bargaining agreements listed in Schedule A for the purposes of the Covered Work only, and any obligation incurred under Schedule A agreements shall expire with the termination of this Agreement. Where specific reference to _____ only is intended, the term Project Contractor is used. This project is being constructed pursuant to an Owner's Participation Agreement ("Owner OPA") for Mission Bay South originally between the Redevelopment Agency of the City and County of San Francisco and Catellus Development Corporation ("Catellus") and subsequently transferred in part to ARE-San Francisco No.__, LLC (the "Owner). The project area is generally bound by _____.

Catellus and the Unions entered into the Mission Bay Project Agreement ("Original PLA") for the entire Mission Bay project on October 8, 1990. The Original PLA was amended by an Addendum to Agreement effective, September 2003 ("Addendum"), which among other things, requires the execution of this Agreement by the Project Contractor when Catellus sells, conveys, ground leases or donates to a third party any real property covered by the Original PLA, subject to the terms and conditions of the Addendum.

PURPOSE

The construction at the Owner's project will require substantial numbers of employees from construction and other supporting crafts. The orderly and uninterrupted construction of the work at the Mission Bay project and the Owner's project are of significant interest to the parties to this Agreement.

It is the purpose of this Agreement to ensure that all work covered by this Agreement proceeds efficiently, economically, and with due consideration for the protection of labor standards, wages, and working conditions.

Consistent with the implementation of the programs described in the Mission Bay Affirmative Action and Economic Development Plan ("MBAAWEDP"), Project Contractor will award all construction contracts to unionized construction firms. Project Contractor further commits that all construction work under its jurisdiction shall be at prevailing wages, fringes and conditions for all trades and crafts pursuant to the appropriate contract identified on Schedule A. Project Contractor will use good-faith efforts to maximize MBE, WBE and LBE contracts with union firms. Should it be determined that Minority Business Enterprise/Women Owned Business Enterprise (MBE/WBE) goals for this project are not being reached as a result of this Agreement, the affected crafts, San Francisco Building Trades Council and Project Contractor will meet and confer to arrive at a resolution which allows for MBE/WBE goal attainment.

The parties to this Agreement have agreed and do establish and put into practice effective and binding methods for the settlement of all misunderstandings, disputes, or grievances that may arise between or among the parties to this Agreement. To accomplish the purpose that the Contractor be assured of complete continuity of operation and that labor-management peace be maintained, the Unions agree not to engage in any strike, picketing, work stoppage, slowdown, sympathy action or any other disruptive activities directed to or in connection with Covered Work, and the Contractors agree not to engage in any lockout.

EFFECT OF OTHER AGREEMENTS

The provisions of this Agreement, including the local collective bargaining agreements listed on Schedule A, shall apply to Project Contractor's construction and the Owner's project, notwithstanding the

provisions of local and/or national union agreements which may conflict or differ with the terms of this Agreement. Where a subject is covered by the provisions of this Agreement is also covered by a collective bargaining agreement which is listed on Schedule A, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of a collective bargaining agreement identified in Schedule A and not covered by this Agreement, the provisions of the appropriate collective bargaining agreement identified on Schedule A shall prevail. Further, the parties are bound by the MBAAEDP which is incorporated in its entirety in this document as though set forth herein. This Agreement is not a collateral agreement within the meaning of Section 56.3(c) and 56.11 of the San Francisco Administrative Code.

SCOPE OF THE AGREEMENT

This Agreement shall apply to all demolition, new construction including exterior landscaping and tenant work, including but not limited to mill cabinet work and built-in furniture work performed on the Owner's project by or otherwise at the control and direction of Project Contractor excluding uses existing at the time of execution of this Agreement (referred to herein as "Covered Work").

UNION RECOGNITION

The Contractor recognizes the Unions signatory hereto as the collective bargaining agents for its employees covered by the terms of this Agreement.

This Agreement does not apply to general superintendents, superintendents, assistant superintendents, (unless covered in a collective bargaining agreement listed in Schedule A), office and clerical employees, guards or other professional or supervisory employees as defined in the National Labor Relations Act.

MANAGEMENT'S RIGHTS

The Contractors retain full and exclusive authority for the management of its operations. Except as expressly limited by other provisions of this Agreement and the appropriate collective bargaining agreement listed on Schedule A, the Contractor retains the right to direct the working force, including the hiring, promotion, transfer, discipline or discharge of its employees; the selection of foremen; the

assignment and scheduling of work; and, the requirement of overtime work and the determination of when it shall be worked. No rules, customs, or practices which limit or restrict productivity, efficiency or the individual and/or joint working efforts of employees shall be permitted or observed. The Contractor may utilize any methods or techniques of construction.

Except as otherwise stated in the appropriate collective bargaining agreement listed on Schedule A, there shall be no limitation or restriction upon the Contractor's choice of materials or design, nor, regardless of source or location, upon the full use and installation of equipment, machinery, package units, precast, prefabricated, prefinished, or preassembled materials, tools, or other labor saving devices. The Contractor may without restriction install or otherwise use materials, supplies or equipment regardless of their source. The on-site installation of application of such items shall be performed by the craft customarily having jurisdiction over such work under the applicable collective bargaining agreement listed on Schedule A; provided, however, it is recognized that other personnel having special talents or qualifications may participate in the installation, checkout or testing of specialized or unusual equipment or facilities.

Except as otherwise stated in the appropriate collective bargaining agreement listed on Schedule A, it is recognized that the use of new technology, equipment, machinery, tools and/or labor savings devices and methods of performing work will be initiated by the Contractor from time to time during the project. The Union agrees that it will not in any way restrict the implementation of such new devices or work methods. If there is any disagreement between the Contractor and the Union concerning the manner or implementation of such device or method of work, the implementation shall proceed as directed by the Contractor, and the Union shall have the right to arbitrate the dispute as set forth in Article VIII of this Agreement.

The failure of the Contractor to exercise rights herein reserved to it or the exercise of those rights in a particular way shall not be deemed a waiver of said rights or of the Contractor's right to exercise said rights in some other manner not in conflict with the terms of this Agreement.

UNION REPRESENTATION

Authorized representatives of the Union shall have access to the Covered Work provided they do not interfere with the work of employees and further provided that such representatives fully comply with the posted visitor and security and safety rules of the Covered Work.

The Union shall have the right to designate working journey workers as stewards. The Union shall, in writing, notify the Contractor as to the identity of the designated steward prior to the assumption of his/her duties as a steward. In addition to his/her work as an employee, the steward shall have the right to receive, but not solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor. The Contractor will not discriminate against a steward in the proper performance of his/her Union duties provided that such duties do not interfere with his/her regular work or with the work of other employees. Stewards shall receive the regular rate of pay for their respective craft. There will be no non-working stewards. The steward shall not have the right to determine when overtime shall be worked or who shall work overtime, or to interfere with any of the supervisory functions of the Contractor.

The Contractor agrees to notify the appropriate Union twenty-four (24) hours prior to the layoff of a steward, except in the case of discipline or discharge for a cause. If a steward is protected against such layoff by the provision of any of the collective bargaining agreements listed on Schedule A, such protection shall be recognized to the extent that the steward possesses the necessary qualifications to perform the work remaining. In any case in which a steward is discharged or disciplined for cause the appropriate Union shall be notified immediately by the Contractor. For the purpose of this provision, "cause" for discharge shall mean incompetence, unexcused absenteeism, disobedience of orders, unsatisfactory performance of duties and violation of posted project work rules.

On work where Catellus' or Owner's personnel may be working in close proximity of the construction activities, the Union agrees that its representatives, stewards and individual workers will not interfere with Catellus' or Owner's personnel or with the work which is being performed by Catellus' or

Owner's personnel. This is not to be construed to mean that Catellus' or Owner's personnel may perform work covered by the collective bargaining agreements listed on Schedule A.

WORK STOPPAGES AND LOCKOUTS

During the term of this Agreement, there shall be no strikes, picketing, work stoppages, slowdowns, sympathy actions or any other disruptive activities directed at or in connection with Covered Work for any reason by the Union or by any employee, and there shall be no lockout by the Contractor.

Failure of any Union or employee to cross any picket line established at the site of Covered Work is a violation of this Article.

The Union shall not sanction, aid or abet, encourage or continue any work stoppage, slowdown, sympathy action, strike, picketing or other disruptive activity at the site of Covered Work and shall undertake all possible means to prevent or to terminate any such activity. No employee shall engage in activities which violate this Article. Any employee who participates in or encourages any activities which interfere with the normal operations of the Covered Work shall be subject to disciplinary action, including discharge. The Union shall not be liable for acts of employees for which it has no responsibility.

In lieu of or in addition to any other action at law or equity, any party, including the Project Contractor, who the parties agree is a beneficiary of this Agreement and specifically this Article with full right of participation in any action under this Article, may institute the following procedure when a breach of paragraphs 1, 2, and/or 3 of this Article is alleged:

(a) The party invoking this procedure shall notify Gerald McKay or John Kagel who the parties agree shall be the permanent Arbitrator under this procedure. In the event that the permanent Arbitrator is unavailable at any time, he shall appoint his alternate. Notice to the Arbitrator shall be by the most expeditious means available, with notice by telegram to the party alleged to be in violation and the involved International Union President.

(b) Upon receipt of said notice, the Arbitrator named above or his alternate shall set and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists.

(c) The Arbitrator shall notify the parties by telegram of the place and time he has chosen for this hearing. Said hearing shall be completed in one session. A failure of any party to parties to attend said hearing shall not delay the hearing of evidence or issuance of an award by the Arbitrator.

(d) The sole issue at the hearing shall be whether or not a violation of paragraphs 1, 2 and/or 3 of this Article has, in fact, occurred and the Arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or to award damages. Any issue concerning damages is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing and may be issued without an opinion. If any party desires an opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of the Award. The Arbitrator may order cessation of the violation of this Article and other appropriate relief, and such Award shall be served on all parties by hand or registered mail upon issuance.

(e) Such Award may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to hereinabove in the following manner. Telegraphic notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the Arbitrator's Award as issued under paragraph 4(d) of this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The court's order or orders enforcing the Arbitrator's Award shall be served on all parties by hand or by delivery to their last known address or by registered mail.

(f) Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance therewith are hereby waived by the parties to whom they accrue.

(g) The fees and expenses of the Arbitrator shall be divided equally between the moving parties and the party or parties respondent.

PROJECT COORDINATION COMMITTEE

The parties agree to form a committee comprised of representatives for the Building Trades Council, affected local union and Project Contractor, to meet and discuss issues which may arise from time to time regarding the interpretation, application and enforcement of this Agreement.

In the event a dispute arises between or among the parties thereto which cannot be resolved by the committee described in the preceding paragraph, then the dispute shall be referred to arbitration as described in Article VII with mutually agreed-upon extensions to time limits set forth therein, as may be required.

WORK ASSIGNMENTS AND JURISDICTION DISPUTES

Work shall be assigned by the Contractor. There shall be no strikes, picketing, work stoppage, sympathy actions, slowdowns or other disruptive activity arising out of any jurisdictional dispute directed at or in connection with Covered Work during the term of this Agreement.

Except as provided below, all jurisdictional disputes will be settled in accordance with the procedural rules and decisions of the Plan for Settlement of Jurisdictional Disputes in the Construction Industry and shall be binding upon the Contractor and the Unions.

Where a jurisdictional dispute involves any Union not a party to the Plan for Settlement of Jurisdictional Disputes in the Construction Industry and is not resolved among the Unions and the site representative of the affected Contractor, it shall be referred for resolution to the International Unions with which the disputed Unions are affiliated. The International Unions shall hereafter meet with the representative of the affected Contractor to reach a joint resolution of the disputes. For purposes of all disputes referred to the International Unions, the Project Contractor shall be a party in interest. The resolution of the dispute shall be reduced to writing, signed by representatives of the Local and/or International Unions and a copy furnished to the Contractor. (The Local and/or International Unions and

the Contractor, in making their determination, shall have no authority to assign work to a double crew, that is, to more employees than the minimum required to perform the work involved, or to assign the work to employees who are not qualified to perform the work involved.) This does not prohibit establishment of composite crews following jurisdictional guidelines where more than one employee is needed for the job. The work shall proceed as assigned by the Contractor until such resolution by the parties has been confirmed in the manner indicated by the disputing Unions to the Contractors. Any such resolution shall be final and binding on the Contractor and the Unions.

WAGES, HOURS, WORKING CONDITIONS AND FRINGE BENEFITS

With the exception of black Friday which shall not be observed on construction covered by this Agreement, wages, hours, fringe benefits and other working conditions shall be determined by the appropriate collective bargaining agreements listed on Schedule A. Make-up days as provided in certain collective bargaining agreements listed on Schedule A shall apply to work covered by this Agreement.

NO DISCRIMINATION

The Contractor and the Unions agree that they will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or age in any manner prohibited by law.

APPRENTICES

In order to meet and fulfill minority and woman apprentices and journey-level goals, to ensure those inducted into apprenticeship programs through Mission Bay Affirmative Action Outreach status, a continuity of work is required. All work covered by this Agreement will have an appropriate apprenticeship program equal to or better than those established by the appropriate collective bargaining agreements listed on Schedule A or their respective equivalent. The work will be done under the wages, hours, conditions, benefits of the appropriate collective bargaining agreement identified on Schedule A. The recruitment, selection, employment and training of apprentices shall be without discrimination because of age, race, color, religion, national origin, or sex. This provision shall be applied in manner consistent with the MBAAEDP and the appropriate JATC, except where superseded by the provisions of

the Amended Consent Decree in Civil Case No. C-71-1277RFP, as modified, or as may be subsequently modified during the term of this Agreement.

SAFETY AND HEALTH

The Contractor, the Unions and the employees shall comply with all applicable provisions of local, state, and federal laws and regulations relating to the job safety and safe work practices.

SAVINGS AND SEPARABILITY

It is not the intention of either the Contractor or the Union parties hereto to violate any laws governing the subject matter of this Agreement. The parties hereto agree that in the event any provisions of this Agreement are finally held or determined to be illegal or void as being in contravention of any applicable law, the remainder of this Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, Contractor and Union agree that if and when any or all provisions of this Agreement are finally held or determined to be illegal or void by a court of competent jurisdiction, an effort will be made to then promptly enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the requirements of any applicable law and the intent of the parties hereto.

This Article shall not be construed to waive the prohibitions of Article VII, and if the parties are unable to resolve their differences, the matter shall be referred to the procedure of Article VIII for resolution.

ENTIRE UNDERSTANDING

The parties agree that the total results of their bargaining are embodied in this Agreement, and any attached exhibits and schedules, and no party signatory hereto is required to render any performance not set forth in the wording of this Agreement. This Agreement may be amended only by written agreement signed by the parties hereto. In the event that modification to this Agreement is required, the parties agree to promptly convene the Project Coordination Committee to discuss and negotiate the necessary modification.

DURATION OF THE AGREEMENT

This Agreement shall become effective immediately upon Project Contractor's commencement of any demolition or construction activities at the Owner's project within the scope of the Owner's OPA and this Agreement and shall continue in effect for the duration of the Owner's construction activities on the Owner's project as described in Article III above. Construction of any phase, portion, section or segment of Owner's project shall be deemed completed when such phase, portion, section or segment has been turned over to the Owner and has received the final acceptance from the Owner's representative.

The collective bargaining agreements identified on Schedule A attached to this Agreement shall continue in full force and effect until the contractor and union parties to those collective bargaining agreements notify the Project Contractor of the mutually agreed upon changes in such agreements. The parties agree that any provisions negotiated into said collective bargaining agreements will not apply to work on the Owner's project if such provisions are less favorable to the Contractor than those uniformly required of contractors for construction work covered by those agreements. Such provisions, negotiated, shall not be recognized or applied on Owner's project if they may be construed to apply exclusively or predominantly to work covered by this Agreement.

The Unions agree that there will be no strikes, work stoppages, sympathy actions, picketing, slowdowns or other disruptive activities affecting the Covered Work by the Unions involved in the negotiation of the collective bargaining agreements listed on Schedule A, nor shall there by any lockout on Covered Work affecting the Unions during the course of such negotiations. Any disagreement between the parties over the incorporation into a collective bargaining agreement listed on Schedule A of such provision agreed upon in the negotiation of the collective bargaining agreement shall be subject to the grievance and arbitration procedures of Article VIII.

This Agreement shall be effective until March, 7 2008 and shall renew automatically for additional terms of seven years (7) each unless not less than ninety (90) days prior to the termination date of the initial or any subsequent term either Project Contractor or the San Francisco Building Trades Council give written notice to the other requesting modification or termination of the Owner's OPA. Notwithstanding,

this Agreement shall terminate upon the termination of the Owner's OPA. Should this Agreement terminate due to the termination of the Owner's OPA, it will be automatically reinstated if the Owner's OPA or a substitute agreement thereto is reinstated within three (3) years of its termination. If reinstatement of the Owner's OPA or a substitute agreement thereto occurs more than three (3) years after its termination, the parties will negotiate a new project agreement. Reinstatement of this Agreement is subject to the seven (7) year terms and notice provision stated above.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and effective as of the day and year above written.

PROJECT CONTRACTOR

SAN FRANCISCO BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

UNIONS (See Schedule A Attached)

Insulators & Asbestos Workers Local 16

Dated:_____
Bricklayers & Allied Crafts Local 3

Dated:_____
Carpenters Local 2236

Dated:_____
Cement Masons Local 300, Area 580

Dated:_____
Elevator Constructors Local 8

Dated:_____
Hod Carriers Local 36

Dated:_____
Laborers Local 67

Dated:_____

Boilermakers Local 549

Dated:
Carpenters Local 22

Dated:_____
District Council #16 I.U.P.A.T.

Dated:_____
Electrical Workers Local 6

Dated:_____

Iron Workers Local 377

Dated:_____
Laborers Local 261

Dated:_____

Operating Engineers Local 3

Dated:_____

Millwrights Local 102

Dated:_____

Piledrivers Local 34

Dated:_____

Operative Plasterers Local 66

Dated:_____

Plumbers & Steamfitters Local 38

Dated:_____

Roofers & Waterproofers Local 40

Dated:_____

Sheet Metal Workers Local 104

Dated:_____

Sign & Display Local 510

Dated:_____

Sprinkler Fitters Local 483

Dated:_____

Teamsters Local 853

Dated:_____

Professional & Technical Engineers Local 21

Dated:_____

Iron Workers Shop Local 790

Dated:_____

United Steelworkers of America Machinists Local 1304

Dated:_____

Window Cleaners Local 44

Dated:_____

EXHIBIT J TO LEASE

ROOF EQUIPMENT

Subject to the provisions of this Lease, Tenant may, at its sole cost, install, maintain, and from time to time replace a telecommunications dish antenna or other related equipment on the roof of the Building (collectively, "**Roof Equipment**") in a location selected by Landlord and reasonably acceptable to Tenant for Tenant's own communication use only; provided, however, that (i) Tenant shall obtain Landlord's prior written approval with respect to the installation of such Roof Equipment which approval shall not be unreasonably withheld, conditioned or delayed and shall include consideration all relevant factors including, without limitation, the proposed size, weight and location of the Roof Equipment and method for fastening the same to the roof, (ii) Tenant shall, at its sole cost, comply with any reasonable requirements imposed by Landlord and all Legal Requirements and the conditions of any bond or warranty maintained by Landlord on the roof, (iii) Tenant shall be responsible for paying for any structural upgrades that may be required by Landlord in connection with the Roof Equipment, and (iv) Tenant shall remove, at its expense, at the expiration or earlier termination of this Lease, any Roof Equipment which Landlord requires to be removed. Landlord shall have the right to supervise any roof penetration. Tenant shall have the right to access the roof of the West Wing of the Building upon written notice to Landlord but without a Landlord representative required to be present. Tenant may not access the roof of the East Wing of the Building without a representative of Landlord (who shall be reasonably available) being present. Landlord hereby approves all Roof Equipment installed pursuant to the terms of the Pfizer Sublease and the Existing Lease Agreement. Tenant shall repair any damage to the Building caused by Tenant's installation, maintenance, replacement, use or removal of the Roof Equipment. Tenant shall remove any Roof Equipment at its cost upon expiration or termination of the Lease or sooner, at the request of Landlord, if any of the same unreasonably interferes, as reasonably determined by Landlord, with the operation of any other tenant's use of the Project. Tenant shall install, use, maintain and repair the Roof Equipment, and use the access areas, so as not to damage or interfere with the operation of the Building. Tenant shall protect, defend, indemnify and hold harmless Landlord from and against claims, damages, liabilities, costs and expenses of every kind and nature, including reasonable attorneys' fees, incurred by or asserted against Landlord arising out of Tenant's installation, maintenance, replacement, use or removal of the Roof Equipment. The rights granted to Tenant under this **Exhibit J** are not exclusive and Tenant shall cooperate and coordinate as necessary with any other tenants with Roof Equipment. Tenant shall be responsible for reimbursing Landlord for any reasonable costs actually incurred by Landlord in connection with the exercise by Tenant of any rights granted to Tenant under this **Exhibit J**.

EXHIBIT K TO LEASE

Form of CFD Notices

NOTICE OF SPECIAL TAX

COMMUNITY FACILITIES DISTRICT NO. 5
(MISSION BAY MAINTENANCE DISTRICT)
REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

TO: THE PROSPECTIVE LESSEE OF CERTAIN PREMISES (THE "PREMISES") WITHIN THE BUILDING (THE "BUILDING") DEVELOPED OR BEING DEVELOPED ON THE REAL PROPERTY (THE "PROPERTY") KNOWN AS:

---

455 Mission Bay Boulevard South in the City of San Francisco, County of San Francisco, State of California, more particularly described as:

LOT 2, AS SHOWN ON FINAL MAP 5156, FILED NOVEMBER 25, 2009, IN BOOK CC OF SURVEY MAPS AT PAGES 197 THROUGH 201 IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

[The foregoing legal description does not include any exceptions or reservations or any easements or other rights that may be appurtenant to such real property]

THIS IS A NOTIFICATION TO YOU ("TENANT") PRIOR TO YOUR ENTERING INTO A CERTAIN LEASE WITH RESPECT TO THE PREMISES (THE "LEASE"). THE LANDLORD ("LANDLORD") IS REQUIRED TO GIVE YOU THIS NOTICE AND TO OBTAIN A COPY SIGNED BY YOU TO INDICATE THAT YOU HAVE RECEIVED AND READ A COPY OF THIS NOTICE.

1. The Property is subject to a special tax, which is in addition to the regular property taxes and any other charges, fees, special taxes, and benefit assessments on the parcel. It is imposed on the Property because it is a new development, and may not be imposed generally upon property outside of this new development. If the special tax is not paid when due each year, the Property may be foreclosed upon and sold. The special tax is used to provide services that are likely to particularly benefit the Property. YOU SHOULD TAKE THIS SPECIAL TAX AND THE BENEFITS FROM THE SERVICES FOR WHICH IT PAYS INTO ACCOUNT IN DECIDING WHETHER TO ENTER INTO THE LEASE.

2. The maximum special tax that may be levied against property in the Community Facilities District to pay for services is $21,142.39 per acre during the 2016–17 tax year, ending on June 30, 2017. On each July 1, the maximum special tax shall be increased by the lesser of (1) the percentage increase, if any, in the Consumer Price Index (San Francisco-Oakland-San Jose, all urban consumers) since the prior July 1, and (2) five and one-half percent (5-1/2%) of the

maximum special tax in effect in the previous tax year. The special tax will be levied and collected each year until the tax year 2043-44.

(a) Since the Property is approximately 1.51 acres, the maximum special tax for the 2016-17 tax year that may be levied against the Property is $31,950.44 (as increased each July 1, the "Maximum Special Tax [Property]"). Since, pursuant to the Lease, the Premises are or will be approximately 128,793 rentable square feet and the entire Building is or will be approximately 210,000 rentable square feet, approximately 61.33% of the Maximum Special Tax [Property] (or $19,595.20 for the 2016-17 tax year) is or will be allocable to the Premises. If you elect to exercise any option or right of first offer/refusal to expand the Premises as provided in the Lease, the portion of the Maximum Special Tax [Property] allocable to the Premises (as so expanded) will be increased proportionately.

(b) The parking facilities that serve the Property are located on real property that is adjacent to or near the Property known as 450 South Street in the City of San Francisco, County of San Francisco, State of California (the "Parking Parcel"). Since the Parking Parcel is approximately 1.58 acres, the maximum special tax for the 2016-17 tax year that may be levied against the Parking Parcel is $33,404.96 (as increased each July 1, the "Maximum Special Tax [Parking Parcel]"). Since, pursuant to the Lease, 179 parking spaces will be allocated to the Premises and the parking facilities located on the Parking Parcel contain a total of 1,424 parking spaces, approximately 12.57% of the Maximum Special Tax [Parking Parcel] (or $4,199.08 for the 2016-17 tax year) is or will be allocable to the Premises. If the number of parking spaces allocated to the Premises on the Parking Parcel is increased (through the exercise of any option or right of first offer/refusal to expand the Premises or the exercise of any other right provided in the Lease), the portion of the Maximum Special Tax [Parking Parcel] allocable to the Premises (as the number of parking spaces is so increased) will be increased proportionately.

3. The authorized services that are being paid for by the special taxes are for ongoing maintenance of open space parcels in the Community Facilities District, including, but not limited to, landscaping in public plazas and public parks. Costs to be funded shall include all personnel or third party costs related to such maintenance, costs of maintaining irrigation systems and other equipment directly related to such maintenance, maintenance or replacement as needed of landscaped areas, water features, bathrooms, trash receptacles, park benches, planting containers, picnic tables and other equipment or fixtures installed in areas to be maintained, insurance costs, and any other related overhead costs, along with personnel, administrative, and overhead costs incurred by the Successor Agency to the Redevelopment Agency of the City and County of San Francisco (commonly known as the Office of Community Investment and Infrastructure) (the "Successor Agency"), related to such maintenance or to contracting for and managing third parties in connection with such maintenance.

The facilities to be maintained may not yet have all been constructed or acquired and it is possible that some may never be constructed or acquired.

YOU MAY OBTAIN A COPY OF THE RESOLUTION OF FORMATION THAT AUTHORIZED CREATION OF THE COMMUNITY FACILITIES DISTRICT, AND THAT SPECIFIES MORE PRECISELY HOW THE SPECIAL TAX IS APPORTIONED AND HOW THE PROCEEDS OF THE TAX WILL BE USED, FROM THE SUCCESSOR AGENCY BY

CALLING 877-561-8293 (OR FROM GOODWIN CONSULTING GROUP, BY CALLING 916-561-0890). THERE MAY BE A CHARGE FOR THIS DOCUMENT NOT TO EXCEED THE REASONABLE COST OF PROVIDING THE DOCUMENT.

TENANT ACKNOWLEDGES THAT IT RECEIVED AND READ A COPY OF THIS NOTICE PRIOR TO ENTERING INTO THE LEASE WITH RESPECT TO THE PREMISES, WHICH ARE LOCATED WITHIN THE PROPERTY. FURTHER, TENANT UNDERSTANDS THAT IT MAY TERMINATE THE LEASE WITHIN THREE DAYS AFTER RECEIVING THIS NOTICE IN PERSON OR WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE MAIL BY GIVING WRITTEN NOTICE OF THAT TERMINATION TO LANDLORD.

Date: _____, 2017

NEKTAR THERAPEUTICS,
a Delaware corporation

By:
Print Name:
Print Title:

NOTICE OF SPECIAL TAX

COMMUNITY FACILITIES DISTRICT NO. 6
(MISSION BAY SOUTH PUBLIC IMPROVEMENTS)
REDEVELOPMENT AGENCY OF THE CITY AND
COUNTY OF SAN FRANCISCO, CALIFORNIA

TO: THE PROSPECTIVE LESSEE OF CERTAIN PREMISES (THE "PREMISES") WITHIN THE BUILDING (THE "BUILDING") DEVELOPED OR BEING DEVELOPED ON THE REAL PROPERTY (THE "PROPERTY") KNOWN AS:

---

455 Mission Bay Boulevard South in the City of San Francisco, County of San Francisco, State of California, more particularly described as:

LOT 2, AS SHOWN ON FINAL MAP 5156, FILED NOVEMBER 25, 2009, IN BOOK CC OF SURVEY MAPS AT PAGES 197 THROUGH 201 IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

[The foregoing legal description does not include any exceptions or reservations or any easements or other rights that may be appurtenant to such real property]

THIS IS A NOTIFICATION TO YOU ("TENANT") PRIOR TO YOUR ENTERING INTO A CERTAIN LEASE. THE LANDLORD ("LANDLORD") IS REQUIRED TO GIVE YOU THIS NOTICE AND TO OBTAIN A COPY SIGNED BY YOU TO INDICATE THAT YOU HAVE RECEIVED AND READ A COPY OF THIS NOTICE.

1. The Property is subject to a special tax, which is in addition to the regular property taxes and any other charges, fees, special taxes, and benefit assessments on the parcel. It is imposed on the Property because it is a new development, and may not be imposed generally upon property outside of this new development. If the special tax is not paid when due each year, the Property may be foreclosed upon and sold. The special tax is used to provide public facilities that are likely to particularly benefit the Property. YOU SHOULD TAKE THIS SPECIAL TAX AND THE BENEFITS FROM THE FACILITIES FOR WHICH IT PAYS INTO ACCOUNT IN DECIDING WHETHER TO ENTER INTO THE LEASE.

2. The maximum special tax that may be levied against property in the Community Facilities District to pay for services is $156,497.57 per acre during the 2016–17 tax year, ending on June 30, 2017. On each July 1, the maximum special tax shall be increased by two percent (2%) of the maximum special tax in effect in the previous tax year. The special tax will be levied until all of the authorized facilities are completed and paid for and all special tax bonds are repaid or provision for their repayment is made, but in any event not later than the year 2050.

(a) Since the Property is approximately 1.51 acres, the maximum special tax for the 2016-17 tax year that may be levied against the Property is $236,499.58 (as increased each

July 1, the "Maximum Special Tax [Property]"). Since, pursuant to the Lease, the Premises are or will be approximately 128,793 rentable square feet and the entire Building is or will be approximately 210,000 rentable square feet, approximately 61.33% of the Maximum Special Tax [Property] (or $145,045.19 for the 2016-17 tax year) is or will be allocable to the Premises. If you elect to exercise any option or right of first offer/refusal to expand the Premises as provided in the Lease, the portion of the Maximum Special Tax [Property] allocable to the Premises (as so expanded) will be increased proportionately.

(b) The parking facilities that serve the Property are located on real property that is adjacent to or near the Property known as 450 South Street in the City of San Francisco, County of San Francisco, State of California (the "Parking Parcel"). Since the Parking Parcel is approximately 1.58 acres, the maximum special tax for the 2016-17 tax year that may be levied against the Parking Parcel is $247,266.16 (as increased each July 1, the "Maximum Special Tax [Parking Parcel]"). Since, pursuant to the Lease, 179 parking spaces will be allocated to the Premises and the parking facilities located on the Parking Parcel contain a total of 1,424 parking spaces, approximately 12.57% of the Maximum Special Tax [Parking Parcel] (or $31,081.36 for the 2016-17 tax year) is or will be allocable to the Premises. If the number of parking spaces allocated to the Premises on the Parking Parcel is increased (through the exercise of any option or right of first refusal to expand the Premises or the exercise of any other right provided in the Lease), the portion of the Maximum Special Tax [Parking Parcel] allocable to the Premises (as the number of parking spaces is so increased) will be increased proportionately.

3. The authorized facilities that are being paid for by the special taxes, and by the money received from the sale of bonds that are being repaid by the special taxes, are identified in the Mission Bay South Owner Participation Agreement available at the Successor Agency to the Redevelopment Agency of the City and County of San Francisco (commonly known as the Office of Community Investment and Infrastructure) (the "Successor Agency"). Generally, the facilities include open space (including, among other items, park improvements and restrooms), streets, rails and rail line bridges, sewer and storm drainage systems, water systems, street improvements (including freeway ramps or other demolition), traffic signal systems, acquisition of required land to construct infrastructure, dry utilities, and other improvements any of which are to be constructed in or for the benefit of the Community Facilities District.

These facilities may not yet have all been constructed or acquired and it is possible that some may never be constructed or acquired.

YOU MAY OBTAIN A COPY OF THE RESOLUTION OF FORMATION THAT AUTHORIZED CREATION OF THE COMMUNITY FACILITIES DISTRICT, AND THAT SPECIFIES MORE PRECISELY HOW THE SPECIAL TAX IS APPORTIONED AND HOW THE PROCEEDS OF THE TAX WILL BE USED, FROM THE SUCCESSOR AGENCY BY CALLING 877-561-8293 (OR FROM GOODWIN CONSULTING GROUP, BY CALLING 916-561-0890). THERE MAY BE A CHARGE FOR THIS DOCUMENT NOT TO EXCEED THE REASONABLE COST OF PROVIDING THE DOCUMENT.

TENANT ACKNOWLEDGES THAT IT RECEIVED AND READ A COPY OF THIS NOTICE PRIOR TO ENTERING INTO THE LEASE WITH RESPECT TO THE PREMISES, WHICH ARE LOCATED WITHIN THE PROPERTY. FURTHER, TENANT UNDERSTANDS

THAT IT MAY TERMINATE THE LEASE WITHIN THREE DAYS AFTER RECEIVING THIS NOTICE IN PERSON OR WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE MAIL BY GIVING WRITTEN NOTICE OF THAT TERMINATION TO LANDLORD.

Date: _____, 2017

NEKTAR THERAPEUTICS,
a Delaware corporation

By:
Print Name:
Print Title:

NOTICE OF SPECIAL TAX

COMMUNITY FACILITIES DISTRICT NO. 90-1
OF THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT
OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

TO: THE PROSPECTIVE LESSEE OF CERTAIN PREMISES (THE "PREMISES") WITHIN THE BUILDING (THE "BUILDING") DEVELOPED OR BEING DEVELOPED ON THE REAL PROPERTY (THE "PROPERTY") KNOWN AS:

_____

455 Mission Bay Boulevard South in the City of San Francisco, County of San Francisco, State of California, more particularly described as:

LOT 2, AS SHOWN ON FINAL MAP 5156, FILED NOVEMBER 25, 2009, IN BOOK CC OF SURVEY MAPS AT PAGES 197 THROUGH 201 IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

[The foregoing legal description does not include any exceptions or reservations or any easements or other rights that may be appurtenant to such real property]

_____

THIS IS A NOTIFICATION TO YOU ("TENANT") PRIOR TO YOUR ENTERING INTO A CERTAIN LEASE WITH RESPECT TO THE PREMISES (THE "LEASE"). THE LANDLORD ("LANDLORD") IS REQUIRED TO GIVE YOU THIS NOTICE AND TO OBTAIN A COPY SIGNED BY YOU TO INDICATE THAT YOU HAVE RECEIVED AND READ A COPY OF THIS NOTICE.

1. The Property is subject to a special tax, which is in addition to the regular property taxes and any other charges, fees, special taxes, and benefit assessments on the parcel. It is imposed on the Property because it is a new development, and is not necessarily imposed generally upon property outside of this new development. If the special tax is not paid when due each year, the Property may be foreclosed upon and sold. The special tax is used to provide public facilities or services that are likely to particularly benefit the Property. YOU SHOULD TAKE THIS TAX AND THE BENEFITS FROM THE FACILITIES AND SERVICES FOR WHICH IT PAYS INTO ACCOUNT IN DECIDING WHETHER TO ENTER INTO THE LEASE.

2. The maximum special tax that may be levied against the Property to pay for public facilities (the "Maximum Special Tax [Property]") is $36.06 per assessor's parcel during the 2016–17 tax year, ending on June 30, 2017. This amount of the annual special tax is scheduled to increase annually. The special tax will be levied each year until all of the authorized facilities are built and all special tax bonds are repaid. An additional special tax will be used to pay for ongoing service costs, if applicable. No such tax, however, is scheduled to be imposed.

(a) Since, pursuant to the Lease, the Premises are or will be approximately 128,793 rentable square feet and the entire Building is or will be approximately 210,000 rentable square feet, approximately 61.33% of the Maximum Special Tax [Property] (or $22.11 for the 2016-17 tax year) is or will be allocable to the Premises. If you elect to exercise any option or right of first refusal to expand the Premises as provided in the Lease, the portion of the Maximum Special Tax [Property] allocable to the Premises (as so expanded) will be increased proportionately.

(b) The parking facilities that serve the Property are located on real property that is adjacent to or near the Property known as 450 South Street in the City of San Francisco, County of San Francisco, State of California (the "Parking Parcel"). The maximum special tax that may be levied against the Parking Parcel to pay for public facilities (the "Maximum Special Tax [Parking Parcel]") is $36.06 per assessor's parcel during the 2016–17 tax year, ending on June 30, 2017. Since, pursuant to the Lease, 179 parking spaces will be allocated to the Premises and the parking facilities located on the Parking Parcel contain a total of 1,424 parking spaces, approximately 12.57% of the Maximum Special Tax [Parking Parcel] (or $4.56 for the 2016-17 tax year) is or will be allocable to the Premises. If the number of parking spaces allocated to the Premises on the Parking Parcel is increased (through the exercise of any option or right of first refusal to expand the Premises or the exercise of any other right provided in the Lease), the portion of the Maximum Special Tax [Parking Parcel] allocable to the Premises (as the number of parking spaces is so increased) will be increased proportionately.

3. The authorized facilities that are being paid for by the special taxes, and by the money received from the sale of bonds that are being repaid by the special taxes, are:

PUBLIC SCHOOL FACILITIES

These facilities may not yet have all been constructed or acquired and it is possible that some may never be constructed or acquired.

In addition, the special taxes may be used to pay for costs of the following services:

NONE

YOU MAY OBTAIN A COPY OF THE RESOLUTION OF FORMATION THAT AUTHORIZED CREATION OF THE COMMUNITY FACILITIES DISTRICT, AND THAT SPECIFIES MORE PRECISELY HOW THE SPECIAL TAX IS APPORTIONED AND HOW THE PROCEEDS OF THE TAX WILL BE USED, FROM THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT OF THE CITY AND COUNTY OF SAN FRANCISCO BY CALLING 415-355-2203. THERE MAY BE A CHARGE FOR THIS DOCUMENT NOT TO EXCEED THE REASONABLE COST OF PROVIDING THE DOCUMENT.

TENANT ACKNOWLEDGES THAT IT RECEIVED AND READ A COPY OF THIS NOTICE PRIOR TO ENTERING INTO THE LEASE WITH RESPECT TO THE PREMISES, WHICH ARE LOCATED WITHIN THE PROPERTY. FURTHER, TENANT UNDERSTANDS THAT IT MAY TERMINATE THE LEASE WITHIN THREE DAYS AFTER RECEIVING

THIS NOTICE IN PERSON OR WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE MAIL BY GIVING WRITTEN NOTICE OF THAT TERMINATION TO LANDLORD.

Date: _____, 2017

NEKTAR THERAPEUTICS,
a Delaware corporation

By:
Print Name:
Print Title:

EXHIBIT L TO LEASE

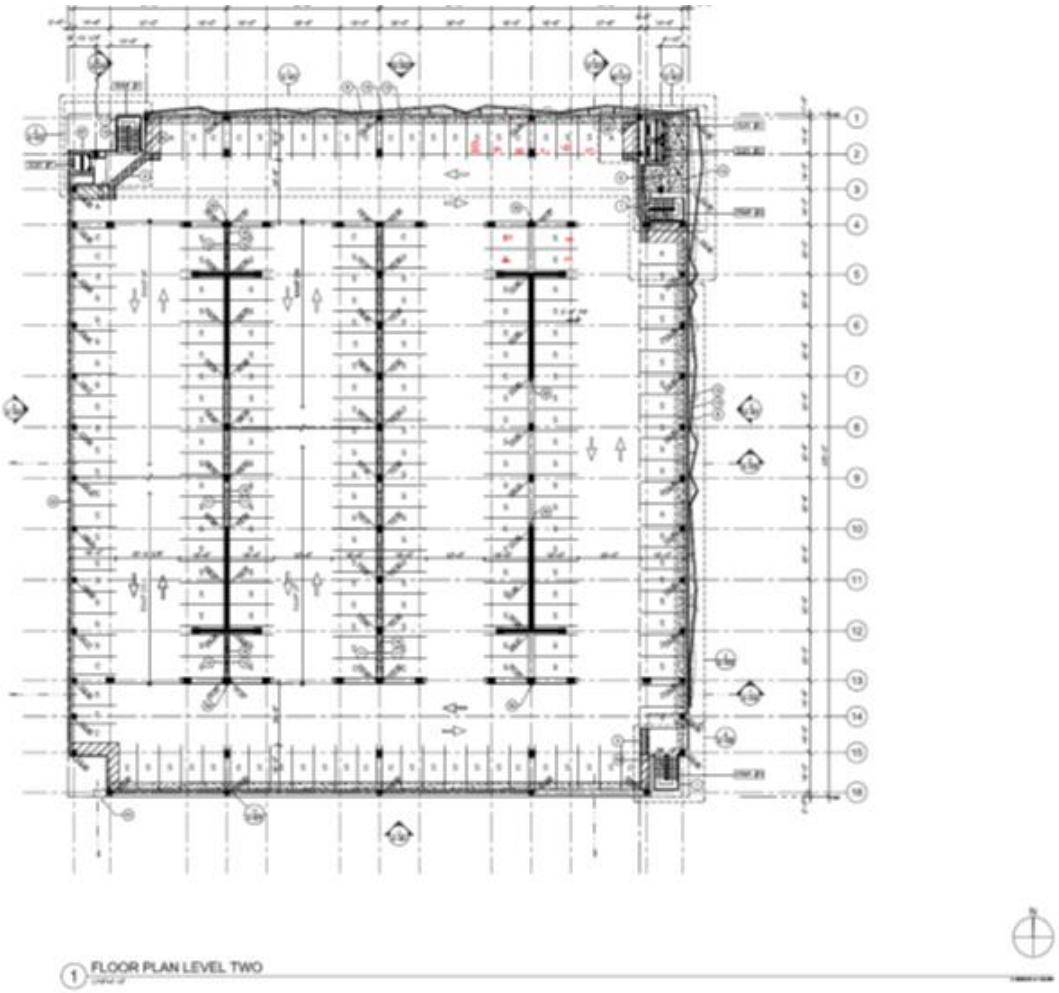
MUST TAKE SPACE

EXHIBIT M TO LEASE

ROFO SPACE

EXHIBIT N TO LEASE

PARKING DIAGRAM



1 FLOOR PLAN LEVEL TWO

FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE (this "**First Amendment**") is made as of August 29, 2017, by and between **ARE-SAN FRANCISCO NO. 19, LLC**, a Delaware limited liability company ("**Landlord**"), and **NEKTAR THERAPEUTICS**, a Delaware corporation ("**Tenant**").

RECITALS

A. Landlord and Tenant are parties to that certain Lease Agreement dated as of August 4, 2017 (the "**Lease**"). Pursuant to the Lease, Tenant leases certain premises containing approximately 128,793 rentable square feet of space in that certain building located at 455 Mission Bay Boulevard South, San Francisco, California ("**Building**"). The Premises are more particularly described in the Lease. Capitalized terms used herein without definition shall have the meanings defined for such terms in the Lease.

B. Pursuant to Section 2 of the Lease, a condition precedent to the effectiveness of the Lease is that Landlord and Pfizer enter into an agreement to provide for the early termination of the Pfizer Lease, such termination to be effective as of January 31, 2020.

C. Landlord and Pfizer have agreed to an early termination of the Pfizer Lease; the effective date of such termination is the date of this First Amendment.

D. Landlord and Tenant desire, subject to the terms and conditions set forth below, to amend the Lease as provided in this First Amendment.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, the mutual promises and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. **Definitions of Commencement Date and Base Rent**. As of the date hereof, the definitions of Commencement Date and Base Rent on page 1 of the Lease are hereby deleted and replaced with the following:

"**Commencement Date:** September 1, 2017"

"**Base Rent:**

i. From and after the Commencement Date until January 31, 2020, Tenant shall pay Base Rent for the Premises (excluding any Must Take Space) pursuant to the schedule attached hereto as **Exhibit A**. The provisions of Section 4 of this Lease shall not apply prior to February 1, 2020.

ii. Commencing on February 1, 2020, $4.75 per rentable square foot of the Premises per month, subject to adjustment pursuant to Section 4 hereof."

2. **Delivery, Acceptance of Premises; Commencement Date**. The first two paragraphs of Section 2 of the Lease are hereby deleted in their entirety and replaced with the following:

"The Term of this Lease for the Premises shall commence on September 1, 2017 (the "**Commencement Date**"). Tenant is currently in possession of the West Wing Portion of the Premises as a subtenant of Pfizer, Inc. ("**Pfizer**") pursuant to a sublease agreement (the "**Pfizer Sublease**"). In addition, Tenant is currently in possession of the East Wing Portion of the Premises pursuant to a Lease Agreement between Landlord and Tenant dated September 30, 2009 (as the same has been and may in the future be amended, the "**Existing Lease Agreement**"). Concurrently with the mutual execution of this Lease, Landlord and Pfizer are

entering into an amendment (the "**Pfizer Amendment**") to Pfizer's direct lease with Landlord (the "**Pfizer Lease**") pursuant to which the Pfizer Lease will terminate effective as of the date immediately preceding the Commencement Date (the "**New Termination Date**"). Upon request of Landlord, Tenant shall execute and deliver a written acknowledgment of the Commencement Date in the form of the "Acknowledgement of Commencement Date" attached to this Lease as **Exhibit D**; provided, however, Tenant's failure to execute and deliver such acknowledgment shall not affect Landlord's rights hereunder. The "**Term**" of this Lease shall be the Base Term, as defined above, and shall include any Extension Term(s) pursuant to Section 41 below." Concurrently with the execution of this First Amendment, Tenant and Pfizer are entering into an amendment to the Sublease to provide for the early termination of the Sublease effective as of the New Termination Date.

Exhibit D to the Lease is deleted in its entirety and replaced with the **Exhibit B** attached hereto.

3. **Rent Adjustment Date**. The first sentence of Section 4 of the Lease is hereby deleted and replaced with the following language:

> "Base Rent shall be increased on each anniversary of February 1, 2020 (each an "**Adjustment Date**") by multiplying the Base Rent payable immediately before such Adjustment Date by the Rent Adjustment Percentage and adding the resulting amount to the Base Rent payable immediately before such Adjustment Date."

4. **Security Deposit**. The first sentence of Section 6 (Security Deposit) of the Lease is hereby deleted and replaced with the following language:

> "Within five (5) business days prior to the payment of any portion of the TI Allowance, Tenant shall deposit with Landlord a security deposit (the "**Security Deposit**") for the performance of all of Tenant's obligations hereunder in the amount equal to the amount of the TI Allowance disbursement request until the amount of the Security Deposit equals the amount set forth on page 1 of this Lease; provided, however, that (x) notwithstanding the foregoing, Landlord shall have received the full amount of the Security Deposit as set forth on page 1 no later than February 1, 2020 and (y) any unapplied cash security deposit then being held by Landlord pursuant to the terms of the Existing Lease (originally in the amount of $82,330.80) shall be refunded to Tenant within thirty (30) days after the Commencement Date."

The following language is hereby added to Section 6 of the Lease:

> "Within ten (10) business days following the Commencement Date, Tenant shall deposit with Landlord a security deposit (the "**Security Deposit**") in the amount of $301,734.85 in the form of a letter of credit for the performance of all of Tenant's obligations hereunder which shall be held by Landlord until such time as Tenant amends the Letter of Credit in accordance with the first sentence of this Section 6."

5. **Hazardous Materials List**. The reference to Commencement Date in Section 30(b) of the Lease shall mean the date which is 10 business days following the full execution of this First Amendment with respect to Tenant's obligation to provide the Hazardous Materials List and the Hazardous Materials Documents.

6. **Work Letter**: The last sentence of paragraph 1, Section 5(b) of the Work Letter is hereby deleted and replaced with the following:

> "Subject to Section 2 of the Lease, the TI Allowance shall be available to Tenant immediately following the Commencement Date of the Lease."

7. **Brokers**. Landlord and Tenant each represents and warrants that it has not dealt with any broker, agent or other person ("**Broker**"), other than Kidder Matthews, in connection with the transaction

reflected in this First Amendment. Landlord and Tenant each hereby agrees to indemnify and hold the other harmless from and against any claims by any Broker, other than Kidder Matthews, claiming a commission or other form of compensation by virtue of having dealt with Tenant or Landlord, as applicable, with regard to this leasing transaction. There shall be no brokerage commissions due and payable to Kidder Matthews or any other Broker in connection with this First Amendment.

8. **OFAC**. Tenant and Landlord are currently (a) in compliance with and shall at all times during the Term of the Lease remain in compliance with the regulations of the Office of Foreign Assets Control ("**OFAC**") of the U.S. Department of Treasury and any statute, executive order, or regulation relating thereto (collectively, the "**OFAC Rules**"), (b) not listed on, and shall not during the term of the Lease be listed on, the Specially Designated Nationals and Blocked Persons List, Foreign Sanctions Evaders List, or the Sectoral Sanctions Identification List, which are all maintained by OFAC and/or on any other similar list maintained by OFAC or other governmental authority pursuant to any authorizing statute, executive order, or regulation, and (c) not a person or entity with whom a U.S. person is prohibited from conducting business under the OFAC Rules.

9. **Miscellaneous**.

a. This First Amendment is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This First Amendment may be amended only by an agreement in writing, signed by the parties hereto.

b. This First Amendment is binding upon and shall inure to the benefit of the parties hereto, and their respective their respective successors and assigns.

c. This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this First Amendment attached thereto.

d. Except as amended and/or modified by this First Amendment, the Lease is hereby ratified and confirmed and all other terms of the Lease shall remain in full force and effect, unaltered and unchanged by this First Amendment. In the event of any conflict between the provisions of this First Amendment and the provisions of the Lease the provisions of this First Amendment shall prevail. Whether or not specifically amended by this First Amendment, all of the terms and provisions of the Lease are hereby amended to the extent necessary to give effect to the purpose and intent of this First Amendment.

[Signatures are on the next page]

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the day and year first above written.

TENANT:

NEKTAR THERAPEUTICS,
a Delaware corporation

By:/s/ Gil M. Labrucherie
Its: SVP & Chief Financial Officer

LANDLORD:

ARE-SAN FRANCISCO NO. 19, LLC,
a Delaware limited liability company

By:ALEXANDRIA REAL ESTATE EQUITIES, L.P.,
a Delaware limited partnership,
managing member

By:ARE-QRS CORP.,
a Maryland corporation,
general partner

By:/s/ Eric S. Johnson
Its: Senior Vice President RE Legal Affairs

Exhibit A

Base Rent for Premises Between September 1, 2017 and January 31, 2020

Premises SF Sublease 102,283 means the West Wing Portion
Premises SF Direct 24,002 means the East Wing Second Floor Portion
Premises SF Direct 2,508 means the East Wing Fifth Floor Portion

Date	Month	Nektar $/SF (Direct Space) 24,002 SF	Nektar Total (Direct Space)	Nektar $/SF (Direct Space) 2,508 SF	Nektar Total (Direct Space)	Nektar $/SF (Sublease) 102,283 SF	Nektar Total (Sublease)
9/1/2017	2	$4.00	$96,008.00	$3.50	$8,778.00	$3.22	$329,351
10/1/2017	3	$4.00	$96,008.00	$3.61	$9,041.34	$3.22	$329,351
11/1/2017	4	$4.00	$96,008.00	$3.61	$9,041.34	$3.22	$329,351
12/1/2017	5	$4.00	$96,008.00	$3.61	$9,041.34	$3.22	$329,351
1/1/2018	6	$4.00	$96,008.00	$3.61	$9,041.34	$3.22	$329,351
2/1/2018	7	$4.12	$98,888.24	$3.61	$9,041.34	$3.22	$329,351
3/1/2018	8	$4.12	$98,888.24	$3.61	$9,041.34	$3.22	$329,351
4/1/2018	9	$4.12	$98,888.24	$3.61	$9,041.34	$3.22	$329,351
5/1/2018	10	$4.12	$98,888.24	$3.61	$9,041.34	$3.22	$329,351
6/1/2018	11	$4.12	$98,888.24	$3.61	$9,041.34	$3.22	$329,351
7/1/2018	12	$4.12	$98,888.24	$3.61	$9,041.34	$3.22	$329,351
8/1/2018	13	$4.12	$98,888.24	$3.61	$9,041.34	$3.32	$339,580
9/1/2018	14	$4.12	$98,888.24	$3.61	$9,041.34	$3.32	$339,580
10/1/2018	15	$4.12	$98,888.24	$3.72	$9,329.76	$3.32	$339,580
11/1/2018	16	$4.12	$98,888.24	$3.72	$9,329.76	$3.32	$339,580
12/1/2018	17	$4.12	$98,888.24	$3.72	$9,329.76	$3.32	$339,580
1/1/2019	18	$4.12	$98,888.24	$3.72	$9,329.76	$3.32	$339,580
2/1/2019	19	$4.24	$101,768.48	$3.72	$9,329.76	$3.32	$339,580
3/1/2019	20	$4.24	$101,768.48	$3.72	$9,329.76	$3.32	$339,580
4/1/2019	21	$4.24	$101,768.48	$3.72	$9,329.76	$3.32	$339,580
5/1/2019	22	$4.24	$101,768.48	$3.72	$9,329.76	$3.32	$339,580
6/1/2019	23	$4.24	$101,768.48	$3.72	$9,329.76	$3.32	$339,580
7/1/2019	24	$4.24	$101,768.48	$3.72	$9,329.76	$3.32	$339,580
8/1/2019	25	$4.24	$101,768.48	$3.72	$9,329.76	$3.42	$349,808
9/1/2019	26	$4.24	$101,768.48	$3.72	$9,329.76	$3.42	$349,808
10/1/2019	27	$4.24	$101,768.48	$3.83	$9,605.64	$3.42	$349,808
11/1/2019	28	$4.24	$101,768.48	$3.83	$9,605.64	$3.42	$349,808
12/1/2019	29	$4.24	$101,768.48	$3.83	$9,605.64	$3.42	$349,808
1/1/2020	30	$4.24	$101,768.48	$3.83	$9,605.64	$3.42	$349,808

Exhibit B

ACKNOWLEDGMENT OF COMMENCEMENT DATE

This **ACKNOWLEDGMENT OF COMMENCEMENT DATE** is made this 31st day of August, 2017, between **ARE-SAN FRANCISCO NO. 19, LLC**, a Delaware limited liability company ("**Landlord**"), and **NEKTAR THERAPEUTICS**, a Delaware corporation ("**Tenant**"), and is attached to and made a part of the Lease dated August 4, 2017 (the "**Lease**"), by and between Landlord and Tenant. Any initially capitalized terms used but not defined herein shall have the meanings given them in the Lease.

Landlord and Tenant hereby acknowledge and agree, for all purposes of the Lease, that the Commencement Date of the Base Term of the Lease is September 1, 2017, and the termination date of the Base Term of the Lease shall be midnight on January 31, 2030. In case of a conflict between the terms of the Lease and the terms of this Acknowledgment of Commencement Date, this Acknowledgment of Commencement Date shall control for all purposes.

[Landlord and Tenant hereby acknowledge and agree, for all purposes of the Lease, that the Space ___ Commencement Date is _____, 201__, and the Space __ Rent Commencement Date is _____, 201_. In case of a conflict between the terms of the Lease and the terms of this Acknowledgment of Commencement Date, this Acknowledgment of Commencement Date shall control for all purposes.]

IN WITNESS WHEREOF, Landlord and Tenant have executed this ACKNOWLEDGMENT OF COMMENCEMENT DATE to be effective on the date first above written.

TENANT:

NEKTAR THERAPEUTICS,
a Delaware corporation

By:
Its:

LANDLORD:

ARE-SAN FRANCISCO NO. 19, LLC,
a Delaware limited liability company

By:ALEXANDRIA REAL ESTATE EQUITIES, L.P.,
a Delaware limited partnership,
managing member

By:ARE-QRS CORP.,
a Maryland corporation,
general partner

By:
Its:

Exhibit 31.1

CERTIFICATIONS

I, Howard W. Robin, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Nektar Therapeutics;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)), for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 7, 2017

/s/ HOWARD W. ROBIN

Howard W. Robin
Chief Executive Officer, President and Director

Exhibit 31.2

CERTIFICATIONS

I, Gil M. Labrucherie, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Nektar Therapeutics;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)), for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 7, 2017

/s/ GIL M. LABRUCHERIE

Gil M. Labrucherie
Senior Vice President and Chief Financial Officer

Exhibit 32.1

SECTION 1350 CERTIFICATIONS*

Pursuant to the requirement set forth in Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350), Howard W. Robin, Chief Executive Officer, President and Director of Nektar Therapeutics (the "Company"), and Gil M. Labrucherie, Senior Vice President and Chief Financial Officer of the Company, each hereby certifies that, to the best of his knowledge:

1. The Company's Quarterly Report on Form 10-Q for the three months ended September 30, 2017, to which this Certification is attached as Exhibit 32.1 (the "Periodic Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act; and

2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: November 7, 2017

/s/ HOWARD W. ROBIN
Howard W. Robin
Chief Executive Officer, President and Director

/s/ GIL M. LABRUCHERIE
Gil M. Labrucherie
Senior Vice President and Chief Financial Officer

* This certification accompanies the Form 10-Q 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 the Company 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 Form 10-Q), irrespective of any general incorporation language contained in such filing.