UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2020

OR

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

FOR THE TRANSITION PERIOD FROM TO

Commission file number: 001-37507

NANTKWEST, INC.

(Exact name of Registrant as specified in its Charter)

Delaware	**43-1979754**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
3530 John Hopkins Court San Diego, California	**92121**
(Address of principal executive offices)	**(Zip Code)**

Registrant's telephone number, including area code: (858) 633-0300

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

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

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

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

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

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒	Smaller reporting company	☒
		Emerging growth company	☒

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

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

The number of shares of the Registrant's common stock outstanding as of November 5, 2020 was 108,592,583.

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PART I—FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS.

NantKwest, Inc.
Condensed Consolidated Balance Sheets
(in thousands, except share and per share amounts)

	September 30, 2020 (Unaudited)	December 31, 2019
ASSETS		
Current assets:		
Cash and cash equivalents	$ 27,688	$ 15,508
Prepaid expenses and other current assets (including amounts with related parties)	8,977	4,105
Marketable debt securities, available-for-sale	61,353	36,144
Total current assets	98,018	55,757
Marketable debt securities, noncurrent	769	1,497
Property, plant and equipment, net (including amounts with related parties)	55,864	60,501
Operating lease right-of-use assets, net (including amounts with related parties)	14,602	11,729
Equity investment	9,253	9,253
Other assets (including amounts with related parties)	2,029	4,386
Total assets	$ 180,535	$ 143,123
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 6,160	$ 1,749
Accrued expenses	5,497	5,343
Due to related parties	1,356	486
Operating lease liabilities (including amounts with related parties)	5,351	3,206
Other current liabilities	2,299	775
Total current liabilities	20,663	11,559
Operating lease liabilities, less current portion (including amounts with related parties)	11,250	10,885
Total liabilities	31,913	22,444
Commitments and contingencies (Note 8)		
Stockholders' equity:		
Common stock, $0.0001 par value; 500,000,000 shares authorized; 108,592,583 and 98,460,404 issued and outstanding as of September 30, 2020 and December 31, 2019, respectively	11	10
Additional paid-in capital	871,170	782,965
Accumulated other comprehensive loss	(117)	(105)
Accumulated deficit	(722,442)	(662,191)
Total stockholders' equity	148,622	120,679
Total liabilities and stockholders' equity	$ 180,535	$ 143,123

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

NantKwest, Inc.
Condensed Consolidated Statements of Operations
(in thousands, except share and per share amounts)
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2020	2019	2020	2019
Revenue	$ 68	$ 12	$ 90	$ 34
Operating expenses:				
Research and development (including amounts with related parties)	17,284	12,052	44,227	37,781
Selling, general and administrative (including amounts with related parties)	4,711	4,025	16,603	13,949
Total operating expenses	21,995	16,077	60,830	51,730
Loss from operations	(21,927)	(16,065)	(60,740)	(51,696)
Other income (expense):				
Investment income, net	66	433	319	1,336
Interest expense	(9)	(5)	(19)	(8)
Other income, net (including amounts with related parties)	96	56	195	186
Total other income	153	484	495	1,514
Loss before income taxes	(21,774)	(15,581)	(60,245)	(50,182)
Income tax (expense) benefit	(2)	—	(6)	34
Net loss	$ (21,776)	$ (15,581)	$ (60,251)	$ (50,148)
Net loss per share:				
Basic and diluted	$ (0.20)	$ (0.16)	$ (0.59)	$ (0.54)
Weighted-average number of shares during the period:				
Basic and diluted	108,246,579	98,331,695	101,853,047	92,791,644

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

NantKwest, Inc.
Condensed Consolidated Statements of Comprehensive Loss
(in thousands)
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2020	2019	2020	2019
Net loss	$ (21,776)	$ (15,581)	$ (60,251)	$ (50,148)
Other comprehensive (loss) income, net of income taxes:				
Net unrealized (losses) gains on available-for-sale securities	(19)	27	(14)	210
Reclassification of net realized losses on available-for-sale securities included in net loss	2	4	2	4
Total other comprehensive (loss) income	(17)	31	(12)	214
Comprehensive loss	$ (21,793)	$ (15,550)	$ (60,263)	$ (49,934)

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

NantKwest, Inc.
Condensed Consolidated Statements of Stockholders' Equity
(in thousands, except for share amounts)
(Unaudited)

Three Months Ended September 30, 2020	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total
Balance at June 30, 2020	107,764,158	$ 11	$ 870,408	$ (100)	$ (700,666)	$ 169,653
Issuance of common stock, net of $4,373 in offering costs	—	—	19	—	—	19
Stock-based compensation expense	—	—	711	—	—	711
Exercise of stock options	883,256	—	353	—	—	353
Vesting of restricted stock units (RSUs)	83,260	—	—	—	—	—
Employee payroll taxes withheld related to vesting of RSUs and exercise of stock options	(138,091)	—	(321)	—	—	(321)
Other comprehensive loss, net	—	—	—	(17)	—	(17)
Net loss	—	—	—	—	(21,776)	(21,776)
Balance at September 30, 2020	108,592,583	$ 11	$ 871,170	$ (117)	$ (722,442)	$ 148,622

Nine Months Ended September 30, 2020	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total
Balance at December 31, 2019	98,460,404	$ 10	$ 782,965	$ (105)	$ (662,191)	$ 120,679
Issuance of common stock, net of $4,373 in offering costs	8,521,500	1	86,301	—	—	86,302
Stock-based compensation expense	—	—	1,472	—	—	1,472
Exercise of stock options	1,142,273	—	917	—	—	917
Vesting of RSUs	642,236	—	—	—	—	—
Employee payroll taxes withheld related to vesting of RSUs and exercise of stock options	(173,830)	—	(485)	—	—	(485)
Other comprehensive loss, net	—	—	—	(12)	—	(12)
Net loss	—	—	—	—	(60,251)	(60,251)
Balance at September 30, 2020	108,592,583	$ 11	$ 871,170	$ (117)	$ (722,442)	$ 148,622

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

NantKwest, Inc.
Condensed Consolidated Statements of Stockholders' Equity
(in thousands, except for share amounts)
(Unaudited)

Three Months Ended September 30, 2019	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total
Balance at June 30, 2019	98,307,859	$ 10	$ 782,312	$ (84)	$ (630,969)	$ 151,269
Stock-based compensation expense	—	—	277	—	—	277
Vesting of RSUs	90,310	—	—	—	—	—
Employee payroll taxes withheld related to vesting of RSUs	(30,985)	—	(40)	—	—	(40)
Other comprehensive income, net	—	—	—	31	—	31
Net loss	—	—	—	—	(15,581)	(15,581)
Balance at September 30, 2019	98,367,184	$ 10	$ 782,549	$ (53)	$ (646,550)	$ 135,956

Nine Months Ended September 30, 2019	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total
Balance at December 31, 2018	79,087,734	$ 8	$ 741,246	$ (267)	$ (594,981)	$ 146,006
Stock-based compensation expense	—	—	2,150	—	—	2,150
Exercise of warrants	17,589,250	2	35,149	—	—	35,151
Exercise of stock options	1,986,300	—	4,070	—	—	4,070
Vesting of RSUs	247,601	—	—	—	—	—
Employee payroll taxes withheld related to vesting of RSUs and exercise of stock options	(70,115)	—	(66)	—	—	(66)
Repurchase of common stock	(473,586)	—	—	—	(501)	(501)
Cumulative effect of the adoption of the new lease standard	—	—	—	—	(920)	(920)
Other comprehensive income, net	—	—	—	214	—	214
Net loss	—	—	—	—	(50,148)	(50,148)
Balance at September 30, 2019	98,367,184	$ 10	$ 782,549	$ (53)	$ (646,550)	$ 135,956

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

NantKwest, Inc.
Condensed Consolidated Statements of Cash Flows
(in thousands)
(Unaudited)

	Nine Months Ended September 30, 2020	2019
Operating activities:		
Net loss	$ (60,251)	$ (50,148)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	6,864	6,803
Non-cash lease expense related to operating lease right-of-use assets	2,290	1,925
Stock-based compensation expense	1,472	2,150
Amortization of net premiums and discounts on marketable debt securities	425	(11)
Loss on sales of marketable debt securities	2	5
Non-cash interest items, net	(288)	173
Loss on impairment of fixed assets	—	869
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	(2,291)	9,176
Other assets	116	(2,961)
Accounts payable	4,253	342
Accrued expenses and other liabilities	1,574	(11,622)
Due to related parties	1,091	(839)
Operating lease liabilities	(2,654)	(2,339)
Net cash used in operating activities	(47,397)	(46,477)
Investing activities:		
Purchases of property, plant and equipment	(2,238)	(3,502)
Purchase of Viracta common stock	—	(3)
Purchases of marketable debt securities, available-for-sale	(85,581)	(76,831)
Maturities of marketable debt securities	54,080	87,100
Sales of marketable debt securities	6,582	2,529
Net cash (used in) provided by investing activities	(27,157)	9,293
Financing activities:		
Proceeds from equity offering, net of issuance costs paid	86,302	—
Proceeds from exercises of stock options	917	4,070
Proceeds from exercises of warrants	—	35,151
Repurchase of common stock	—	(501)
Net share settlement for restricted stock unit vesting	(485)	(66)
Net cash provided by financing activities	86,734	38,654
Net increase in cash, cash equivalents, and restricted cash	12,180	1,470
Cash, cash equivalents, and restricted cash, beginning of period	15,687	17,000
Cash, cash equivalents, and restricted cash, end of period	$ 27,867	$ 18,470

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

NantKwest, Inc.
Condensed Consolidated Statements of Cash Flows (Continued)
(in thousands)
(Unaudited)

	Nine Months Ended September 30, 2020	2019
Reconciliation of cash, cash equivalents, and restricted cash at end of period:		
Cash and cash equivalents	$ 27,688	$ 18,291
Restricted cash	179	179
Cash, cash equivalents, and restricted cash, end of period	$ 27,867	$ 18,470
Supplemental disclosure of cash flow information:		
Cash paid during the period for:		
Interest	$ 19	$ 8
Income taxes	$ 6	$ 3
Supplemental disclosure of non-cash activities:		
Property and equipment purchases included in accounts payable, accrued expenses and due to related parties	$ 339	$ 188
Cashless exercise of stock options	$ 1,233	$ 29
Right-of-use assets obtained in exchange for operating lease liabilities	$ 5,164	$ 800
Conversion of Viracta convertible notes and accrued interest into investment in equity securities of Viracta (Note 4)	$ —	$ 751
Unrealized (losses) gains on marketable debt securities	$ (12)	$ 271

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

1. Description of Business

Organization

NantKwest, Inc., or NantKwest, was incorporated in Illinois on October 7, 2002 under the name ZelleRx Corporation. On January 22, 2010, the company changed its name to Conkwest, Inc., and on July 10, 2015, the company changed its name to NantKwest, Inc. In March 2014, the company redomesticated from the State of Illinois to the State of Delaware and the Illinois company ceased to exist. We are a pioneering clinical-stage immunotherapy biotechnology company headquartered in San Diego, California with certain operations in Culver City and El Segundo, California and Woburn, Massachusetts. In these notes, the terms "we," "our," "the company" and "us" refer to NantKwest.

We are focused on harnessing the power of the innate immune system by using our natural killer cells, or NK cells, to treat cancer and viral infectious diseases. A critical aspect of our strategy is to invest significantly in innovating new therapeutic candidates, based upon our proprietary activated NK, or aNK, cell platform, and conducting clinical testing and scale manufacturing of our most promising biologic product candidates.

We hold the exclusive right to commercialize aNK cells, a commercially viable NK cell line, and a wide range of genetically modified derivatives capable of killing cancer and virally infected cells. We own corresponding United States, or U.S., and foreign composition and methods-of-use patents and applications covering the cells, improvements, methods of expansion and manufacture and use of aNK cells and their improvements as therapeutics to treat a spectrum of clinical conditions.

We also license exclusive commercial rights to a high-affinity CD16 receptor expressing enhancement of our aNK cell platform, covered in a portfolio of U.S. and foreign composition and methods-of-use patents and applications covering both the clinical use as a therapeutic to treat cancers in combination with antibody products, as well as the non-clinical use in laboratory testing of monoclonal antibodies. We have non-exclusively licensed or sub-licensed our high-affinity CD16 bearing aNK cell platform and corresponding intellectual property to numerous pharmaceutical and biotechnology companies for such non-clinical uses.

Liquidity

On June 29, 2020, the company closed an underwritten public offering of an aggregate of 8,521,500 shares of common stock, which included 4,811,500 shares issued to the public at a price of $9.50 per share (which includes 1,111,500 shares sold to the public upon full exercise of the underwriters' option to purchase additional shares at a public offering price of $9.50 per share), less underwriting discounts and commissions, and 3,710,000 shares issued to our Chairman and principal stockholder, Dr. Patrick Soon-Shiong, at a price of $12.12 per share, less underwriting discounts and commissions. All of the shares were offered by the company. Including the underwriters' option exercise, the aggregate gross proceeds from the offering were approximately $90.7 million, before deducting underwriting discounts, commissions and other offering expenses of approximately $4.4 million.

As of September 30, 2020, the company had an accumulated deficit of $722.4 million. We also had negative cash flow from operations of $47.4 million during the nine months ended September 30, 2020. The company will likely need additional capital to further fund development of, and seek regulatory approvals for, our product candidates, and to begin to commercialize any approved products.

We are currently focused primarily on the development of immunotherapeutic treatments for cancers and debilitating viral infections using targeted cancer and viral killing cell lines, and we believe such activities will result in the company's continued incurrence of significant research and development and other expenses related to those programs. If the clinical trials for any of the company's product candidates fail or produce unsuccessful results and those product candidates do not gain regulatory approval, or if any of our product candidates, if approved, fail to achieve market acceptance, we may never become profitable. Even if the company achieves profitability in the future, it may not be able to sustain profitability in subsequent periods. We intend to cover our future operating expenses through cash and cash equivalents and marketable debt securities on hand and through a combination of equity offerings, debt financings, government or other third-party funding, marketing and distribution arrangements and other collaborations, strategic alliances, and licensing arrangements. Additional financing may not be available to us when needed and, if available, financing may not be obtained on terms favorable to the company or its stockholders.

While we expect our existing cash, and cash equivalents and marketable debt securities will enable us to fund operations and capital expenditure requirements for at least the next 12 months, we anticipate that we will need additional funds to reach commercialization. Failure to obtain adequate financing when needed may require us to delay, reduce, limit, or terminate some or all of our development programs or future commercialization efforts or grant rights to develop and market product candidates that we might otherwise prefer to develop and market ourselves, which could adversely affect our ability to operate as a going concern. If we raise additional funds from the issuance of equity securities, substantial dilution to existing stockholders may result. If we raise additional funds by incurring debt financing, the terms of the debt may involve significant cash payment obligations, as well as covenants and specific financial ratios that may restrict our ability to operate our business.

2. Summary of Significant Accounting Policies

There have been no material changes in our significant accounting policies other than the adoption of accounting pronouncements described below under *Application of New or Revised Accounting Standards – Adopted*, as compared to the significant accounting policies described in our Annual Report on Form 10-K for the year ended December 31, 2019.

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America, or U.S. GAAP and pursuant to the rules and regulations of the Securities and Exchange Commission. The unaudited condensed consolidated financial statements reflect all adjustments which are, in the opinion of management, necessary for a fair presentation of our financial position and results of operations. The unaudited condensed consolidated financial statements do not include all information and notes required by U.S. GAAP for annual reports. Accordingly, these financial statements should be read in conjunction with the audited consolidated financial statements and notes thereto for the fiscal year ended December 31, 2019 included in our Annual Report on Form 10-K. Interim operating results are not necessarily indicative of operating results for the full year.

The condensed consolidated financial statements have been prepared assuming the company will continue as a going concern, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business, and do not include any adjustments to reflect the possible future effects on the recoverability and classification of assets or amounts and classification of liabilities that may result from the outcome of the uncertainty discussed in the Liquidity section of Note 1. We believe our existing cash, cash equivalents, and investments in marketable debt securities, will be sufficient to fund operations through at least the next 12 months following the issuance date of the financial statements. We may also seek to sell additional equity, through one or more follow-on public offerings, or in separate financings, or obtain a credit facility. However, we may not be able to secure such financing in a timely manner or on favorable terms. Without additional funds, we may choose to delay or reduce our operating or investment expenditures. Further, because of the risk and uncertainties associated with the commercialization of the company’s product candidates in development, we may need additional funds to meet our needs sooner than planned.

Principles of Consolidation and Equity Investments

The condensed consolidated financial statements include the accounts of NantKwest and its wholly owned subsidiaries. All intercompany amounts have been eliminated.

We apply the variable interest model under Accounting Standards Codification, or ASC, Topic 810, *Consolidation*, to any entity in which we hold an equity investment or to which we have the power to direct the entity's most significant economic activities and the ability to participate in the entity's economics. If the entity is within the scope of the variable interest model and meets the definition of a variable interest entity, or VIE, we consider whether we must consolidate the VIE or provide additional disclosures regarding our involvement with the VIE. If we determine that we are the primary beneficiary of the VIE, we will consolidate the VIE. This analysis is performed at the initial investment in the entity or upon any reconsideration event.

For entities we hold as an equity investment that are not consolidated under the VIE model, we consider whether our investment constitutes ownership of a majority of the voting interests in the entity and therefore should be considered for consolidation under the voting interest model.

Unconsolidated equity investments in the common stock or in-substance common stock of an entity under which we are able to exercise significant influence, but not control, are accounted for using the equity method. Our ability to exercise significant influence is generally indicated by ownership of 20 to 50 percent interest in the voting securities of the entity.

All other unconsolidated equity investments on which we are not able to exercise significant influence will be subsequently measured at fair value with unrealized holding gains and losses included in other income, net, on the condensed consolidated statements of operations. In the instance the equity investment does not have a readily determinable fair value and does not qualify for the practical expedient to estimate fair value in accordance with ASC 820, *Fair Value Measurement*, or ASC 820, we will apply the measurement alternative under ASC 321, *Investments—Equity Securities*, or ASC 321, pursuant to which we will measure the investment at its cost less impairment, adjusted for observable price changes in an orderly market for an identical or similar investment of the same issuer.

We own non-marketable equity securities that are accounted for using the measurement alternative under ASC 321 because the preferred stock held by us is not considered in-substance common stock and such preferred stock does not have a readily determinable fair value. All investments are reviewed on a regular basis for possible impairment. If an investment's fair value is determined to be less than its net carrying value, the investment is written down to its fair value. Such an evaluation is judgmental and dependent on specific facts and circumstances. Factors considered in determining whether an impairment indicator is present include: the investees' earnings performance and clinical trial performance, change in the investees' industry and geographic area in which it operates, offers to purchase or sell the security for a price less than the cost of the investment, issues that raise concerns about the investee's ability to continue as a going concern, and any other information that we may be aware of related to the investment. Factors considered in determining whether an observable price change has occurred include: the price at which the investee issues equity instruments similar to those of our investment and the rights and preferences of those equity instruments compared to ours.

Use of Estimates

The preparation of condensed consolidated financial statements in conformity with U.S. GAAP requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. On an ongoing basis, we evaluate our estimates, including those related to valuation of equity-based awards, deferred income taxes and related valuation allowances, preclinical and clinical trial accruals, impairment assessments, the measurement of right-of-use assets and lease liabilities, useful lives of long-lived assets, loss contingencies, and fair value measurements. We base our estimates on historical experience and on various other market-specific and relevant assumptions that we believe to be reasonable under the circumstances. Estimates are assessed each period and updated to reflect current information, such as the economic considerations related to the impact that the ongoing coronavirus pandemic could have on our significant accounting estimates. Actual results could differ from those estimates.

Risks and Uncertainties

In March 2020, the World Health Organization declared the novel strain of coronavirus disease (SARS-CoV-2) outbreak a pandemic. To date, our operations have not been significantly impacted by the pandemic. However, we cannot at this time predict the specific extent, duration, or full impact that this pandemic may have on our financial condition and results of operations, including ongoing and planned clinical trials. More specifically, the pandemic may result in prolonged impacts that we cannot predict at this time and we expect that such uncertainties will continue to exist until such time a vaccine is broadly available and in use. The impact of the pandemic on the financial performance of the company will depend on future developments, including the duration and spread of the outbreak and related governmental advisories and restrictions. These developments and the impact of the ongoing pandemic on the financial markets and the overall economy are highly uncertain. If the financial markets and/or the overall economy are impacted for an extended period, our results may be adversely affected.

Contingencies

We record accruals for loss contingencies to the extent that we conclude it is probable that a liability has been incurred and the amount of the related loss can be reasonably estimated. We evaluate, on a quarterly basis, developments in legal proceedings and other matters that could cause a change in the potential amount of the liability recorded or of the range of potential losses disclosed. Moreover, we record gain contingencies only when they are realizable, and the amount is known. Additionally, we record our rights to insurance recoveries, limited to the extent of incurred or probable losses, as a receivable when such recoveries have been agreed to with our third-party insurers and when receipt is deemed probable. This includes instances when our third-party insurers have agreed to pay, on our behalf, certain legal defense costs and settlement amounts directly to applicable law firms and a settlement fund.

Concentration of Credit Risk and Other Risks and Uncertainties

Financial instruments that potentially subject us to concentrations of risk consist principally of cash and cash equivalents and marketable debt securities.

Our cash and cash equivalents are held by one major financial institution in the U.S. and one in Korea.

Product candidates developed by us will require approvals or clearances from the U.S. Food and Drug Administration, or FDA, or international regulatory agencies prior to commercial sales. There can be no assurance that any of our product candidates will receive any of the required approvals or clearances. If we were to be denied approval or clearance or any such approval or clearance was to be delayed, it would have a material adverse impact on us.

Basic and Diluted Net Loss per Share of Common Stock

Basic net loss per share is calculated by dividing the net loss by the weighted-average number of common shares outstanding for the period. Diluted loss per share is computed similarly to basic loss per share except that the denominator is increased to include the number of additional shares that would have been outstanding if the potential common shares had been issued and if the additional common shares were dilutive.

For all periods presented, potentially dilutive securities are excluded from the computation of fully diluted loss per share as their effect is anti-dilutive. The following table details those securities that have been excluded from the computation of potentially dilutive securities:

	As of September 30,	
	2020	2019
Outstanding options	3,648,010	4,506,950
Outstanding RSUs	480,292	1,273,278
Total	4,128,302	5,780,228

Amounts in the table above reflect the common stock equivalents of the noted instruments.

Collaboration Arrangements

We analyze our collaboration arrangements to assess whether they are within the scope of ASC Topic 808, *Collaborative Arrangements*, or ASC 808. A collaborative arrangement is a contractual arrangement that involves a joint operating activity. These arrangements involve two or more parties who are active participants in the activity, and exposed to significant risks and rewards dependent on the commercial success of the activity. This assessment is performed throughout the life of the arrangement based on changes in the responsibilities of all parties in the arrangement. To the extent the collaboration agreement is within the scope of ASC 808, we also assess whether the arrangement contains multiple elements that are within the scope of other accounting literature. If we conclude that some or all aspects of the agreement are distinct and represent a transaction with a customer, we account for those aspects of the arrangement within the scope of ASC Topic 606, *Revenue from Contracts with Customers*, or ASC 606. Amounts that are owed to collaboration partners that are within the scope of ASC 808 are recognized as an offset to research and development expenses as such amounts are incurred by the collaboration partner. Where amounts owed to a collaboration partner exceed our collaboration expenses in each quarterly period, such amounts are classified as research and development expense.

Our collaboration arrangements require us to acquire certain equipment for exclusive use in the joint operating activities. These equipment purchases do not have an alternative use and are therefore expensed as incurred within research and development expenses.

Our collaboration arrangements are further discussed within Note 7, *Collaboration and License Agreements*.

Recent Accounting Pronouncements

Application of New or Revised Accounting Standards – Adopted

In November 2018, the Financial Accounting Standards Board, or FASB, issued Accounting Standards Update, or ASU, No. 2018-18, *Collaborative Arrangements (Topic 808): Clarifying the Interaction between Topic 808 and Topic 606* (ASU 2018-18). ASU 2018-18 clarifies when certain transactions between collaborative arrangement participants should be accounted for as revenue under Topic 606. It also specifically addresses when the participant should be considered a customer in the context of a unit of account; adds unit of account guidance in ASC 808 to align with guidance in ASC 606; and precludes presenting revenue from a collaborative arrangement together with revenue recognized under ASC 606 if the collaborative arrangement participant is not a customer. The new standard is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years with early adoption permitted. We adopted ASU 2018-18, as required, in the quarter ended March 31, 2020. We are a party to several collaboration arrangements as further described in Note 7, *Collaboration and License Agreements*, however, adoption of ASU 2018-18 did not have an impact on our condensed consolidated financial statements because the counterparties to our collaboration agreements do not meet the definition of a customer.

In December 2019, the FASB issued ASU 2019-12, *Simplifying the Accounting for Income Taxes*, or ASU 2019-12. The amendments in ASU 2019-12 include removing the exception to the incremental approach for intraperiod tax allocation when there is a loss from continuing operations and income or a gain from other items (e.g., discontinued operations or other comprehensive income), and the exception to the general methodology for calculating income taxes in an interim period when a year-to-date loss exceeds the anticipated loss for the year. ASU 2019-12 also amends other aspects of accounting for income taxes to help simplify and promote consistent application of U.S. GAAP. The guidance is effective for interim and annual periods beginning after December 15, 2020, with early adoption permitted. We early adopted ASU 2019-12 effective January 1, 2020, and it did not have a material impact on our consolidated financial statements. Although our adoption of ASU 2019-12 did not have a material impact on our consolidated financial statements during the three and nine months ended September 30, 2020, it may have a material impact on our consolidated financial statements in future periods due to the removal of the exceptions discussed above. The amendments related to intraperiod tax allocation were applied prospectively, and the amendment related to calculating income taxes in an interim period when a year-to-date loss exceeds the anticipated loss for the year will be applied prospectively.

Application of New or Revised Accounting Standards – Not Yet Adopted

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*. The FASB subsequently issued amendments to ASU 2016-13, which have the same effective date and transition dates as described below. The new guidance supersedes existing U.S. GAAP for measuring and recording of credit losses on financial assets measured at amortized cost by replacing the incurred-loss model with an expected-loss model. Accordingly, these financial assets will be presented at the net amount expected to be collected. This new standard also requires that credit losses related to available-for-sale debt securities be recorded as an allowance through net income rather than reducing the carrying amount under the current, other-than-temporary-impairment model. For public business entities that meet the definition of a SEC filer, except entities that are eligible to be a smaller reporting company as defined by the SEC, the standard is effective for annual periods beginning after December 15, 2019, and interim periods therein. For all other entities, the standard is effective for annual periods beginning after December 15, 2022, and interim periods therein. Early adoption is permitted for all entities for annual periods beginning after December 15, 2018. With certain exceptions, adjustments are to be applied using a modified-retrospective approach by reflecting adjustments through a cumulative-effect impact on retained earnings as of the beginning of the fiscal year of adoption. We continue to evaluate the impact that this new standard and its related amendments will have on our consolidated financial statements and we do not intend to early adopt this new standard.

Other recent authoritative guidance issued by the FASB (including technical corrections to the ASC), the American Institute of Certified Public Accountants, and the Securities and Exchange Commission during the three months ended September 30, 2020 did not, or are not expected to, have a material effect on our consolidated financial statements.

3. Financial Statement Details

Prepaid expenses and other current assets

As of September 30, 2020 and December 31, 2019, prepaid expenses and other current assets were made up of (in thousands):

	September 30, 2020 (Unaudited)	December 31, 2019
Prepaid preclinical and clinical trial services - with related party (Note 9)	$ 3,262	$ 1,021
Insurance premium financing asset	2,262	757
Prepaid services	825	440
Prepaid insurance	657	372
Interest receivable - marketable debt securities	510	222
Prepaid rent	422	392
Prepaid supplies - with related party (Note 9)	306	467
Prepaid license fees	216	78
Prepaid equipment maintenance	165	251
Laboratory equipment deposit	162	—
Due from related parties	100	47
Insurance claim receivables	—	34
Other	90	24
	$ 8,977	$ 4,105

Property, plant and equipment, net

As of September 30, 2020 and December 31, 2019, property, plant and equipment, net, was made up of (in thousands):

	September 30, 2020 (Unaudited)	December 31, 2019
Leasehold improvements	$ 33,665	$ 33,406
Buildings	22,690	22,690
Equipment	22,738	21,434
Software	1,190	1,195
Furniture & fixtures	415	383
	80,698	79,108
Accumulated depreciation	(24,834)	(18,607)
	$ 55,864	$ 60,501

Depreciation expense related to property, plant and equipment was $2.4 million and $2.2 million for the three months ended September 30, 2020 and 2019, respectively, and $6.9 million and $6.2 million for the nine months ended September 30, 2020 and 2019, respectively.

Other assets

As of September 30, 2020 and December 31, 2019, other assets were made up of (in thousands):

	September 30, 2020 (Unaudited)	December 31, 2019
Prepaid preclinical and clinical trial services - with related party (Note 9)	$ 1,570	$ 4,075
Restricted cash	179	179
Prepaid software license fees	118	—
Security deposit	113	113
Other	49	19
	$ 2,029	$ 4,386

Restricted cash is comprised of a certificate of deposit that serves as collateral for a letter of credit required by our landlord as a security deposit related to our facility in San Diego, California.

Accrued expenses

As of September 30, 2020 and December 31, 2019, accrued expenses were made up of (in thousands):

	September 30, 2020 (Unaudited)	December 31, 2019
Accrued bonus	$ 1,838	$ 2,002
Accrued compensation	1,113	1,064
Accrued professional and service fees	829	975
Accrued laboratory equipment, supplies and related services	635	640
Accrued preclinical and clinical trial costs	627	281
Accrued franchise and sales/use taxes	217	200
Accrued construction costs	164	—
Other	74	181
	$ 5,497	$ 5,343

Other current liabilities

As of September 30, 2020 and December 31, 2019, other current liabilities were made up of (in thousands):

	September 30, 2020 (Unaudited)	December 31, 2019
Financing obligation - current portion	$ 2,262	$ 757
Other	37	18
	$ 2,299	$ 775

Investment income, net

Net investment income is as follows for the three and nine months ended September 30, 2020 and 2019 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2020	2019	2020	2019
	(Unaudited)		(Unaudited)	
Interest income	$ 449	$ 424	$ 795	$ 1,325
Investment (amortization expense) accretion income, net	(381)	13	(474)	15
Net realized losses on investments	(2)	(4)	(2)	(4)
	$ 66	$ 433	$ 319	$ 1,336

Interest income includes interest from marketable debt securities, notes receivable, other assets, and interest from bank deposits. We did not recognize an impairment loss on any investments during the three and nine months ended September 30, 2020 and 2019.

4. Viracta Investment

In March 2017, we participated in a Series B convertible preferred stock financing and invested $8.5 million in Viracta Therapeutics, Inc., or Viracta, a clinical stage drug development company. In May 2017, we executed an exclusive worldwide license with Viracta to develop and commercialize Viracta's proprietary histone deacetylase inhibitor drug candidate for use in combination with natural killer cell therapy and possibly additional therapies. At September 30, 2020, our investment in Viracta totaled $9.3 million. Our investment in Viracta is reflected in equity investment on the condensed consolidated balance sheets.

In June 2018, Viracta executed a 2018 Note and Warrant Purchase Agreement with existing and new investors, including us. The initial closing under the Purchase Agreement occurred in June 2018, at which point we purchased a convertible note for $0.4 million, which under certain circumstances was convertible into preferred stock of Viracta, and a warrant to purchase Viracta's common shares. The convertible note accrued interest at 8% and had a one-year maturity date. In September 2018, a milestone closing under the Purchase Agreement occurred, at which point we purchased an additional convertible note for $0.4 million, which under certain circumstances was convertible into preferred stock of Viracta, and a warrant to purchase Viracta's common shares. The convertible note accrued interest at 8% and had a one-year maturity date. We classified the convertible notes as held-to-maturity notes receivable on the consolidated balance sheets. Effective January 31, 2019, the notes, together with accrued interest then outstanding, were converted to Series B preferred stock resulting in an increase to our investment in Viracta's Series B convertible preferred stock of $0.8 million. In May 2019, we exercised warrants to acquire 253,120 shares of Viracta common stock. At December 31, 2019, our investment in Viracta totaled $9.3 million.

Based on the level of equity investment at risk, Viracta is not a VIE and therefore is not consolidated under the VIE model. In addition, we do not hold a controlling financial interest in Viracta and therefore we do not consolidate Viracta under the voting interest model. As the preferred stock is not considered in-substance common stock, the investment is not within the scope of accounting for the investment under the equity method. As the preferred stock does not have a readily determinable fair value and does not qualify for the practical expedient to estimate fair value in accordance with ASC 820, we have elected to apply the measurement alternative under ASC 321, pursuant to which we measure our investment in Viracta at cost, less impairment, adjusted for observable price changes in an orderly market for an identical or similar investment of the same issuer.

As of September 30, 2020, our qualitative impairment assessment did not indicate there were events or changes in circumstances that may have had a significant adverse effect on the fair value of the investment. We have not recorded any impairments as of September 30, 2020, or on a cumulative basis. Further, we have not identified any downward or upward adjustments due to observable price changes in the investment as of September 30, 2020, or on a cumulative basis.

5. Financial Instruments – Investments in Marketable Debt Securities

At September 30, 2020, our investments in available-for-sale debt securities, excluding $10.6 million of corporate debt securities and commercial paper included in cash and cash equivalents, are detailed below (in thousands):

	September 30, 2020 (Unaudited)			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
Current:				
Corporate debt securities	$ 57,367	$ 3	$ (16)	$ 57,354
Commercial paper	3,998	1	—	3,999
Current portion	61,365	4	(16)	61,353
Noncurrent:				
Corporate debt securities	769	—	—	769
Noncurrent portion	769	—	—	769
Total	$ 62,134	$ 4	$ (16)	$ 62,122

At September 30, 2020, the weighted-average remaining contractual life of our available-for-sale securities was approximately 0.5 years.

At December 31, 2019, our investments in available-for-sale debt securities are detailed below (in thousands):

	December 31, 2019			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
Current:				
Corporate debt securities	$ 32,382	$ 10	$ (3)	$ 32,389
Foreign government bonds	1,007	—	—	1,007
Government sponsored securities	2,752	—	(4)	2,748
Current portion	36,141	10	(7)	36,144
Noncurrent:				
Corporate debt securities	1,501	—	(4)	1,497
Noncurrent portion	1,501	—	(4)	1,497
Total	$ 37,642	$ 10	$ (11)	$ 37,641

Accumulated unrealized losses on debt securities classified as available-for-sale that have been in a continuous loss position for less than 12 months and for more than 12 months at September 30, 2020 and December 31, 2019 were as follows (in thousands):

	September 30, 2020 (Unaudited)			
	Less than 12 months		More than 12 months	
	Estimated Fair Value	Gross Unrealized Losses	Estimated Fair Value	Gross Unrealized Losses
Corporate debt securities	$ 33,238	$ (16)	$ —	$ —
Total	$ 33,238	$ (16)	$ —	$ —

	December 31, 2019			
	Less than 12 months		More than 12 months	
	Estimated Fair Value	Gross Unrealized Losses	Estimated Fair Value	Gross Unrealized Losses
Corporate debt securities	$ 11,021	$ (3)	$ 1,497	$ (4)
Government sponsored securities	—	—	2,748	(4)
Total	$ 11,021	$ (3)	$ 4,245	$ (8)

We evaluated our securities for other-than-temporary impairment and concluded that the decline in value was primarily caused by current economic and market conditions. We do not intend to sell the investments and it is not more likely than not that we will be required to sell the investments before recovery of their amortized cost bases. Therefore, we did not recognize any other-than-temporary impairment loss during the nine months ended September 30, 2020.

Realized gains and losses on sales of available-for-sale debt securities during the three and nine months ended September 30, 2020 and 2019 were immaterial.

6. Fair Value Measurements

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date, based on our principal or, in absence of a principal, most advantageous market for the specific asset or liability.

We use a three-tier fair value hierarchy to classify and disclose all assets and liabilities measured at fair value on a recurring basis, as well as assets and liabilities measured at fair value on a non-recurring basis, in periods subsequent to their initial measurement. The hierarchy requires us to use observable inputs when available, and to minimize the use of unobservable inputs, when determining fair value. The three tiers are defined as follows:

- Level 1— Observable inputs that reflect quoted market prices (unadjusted) for identical assets or liabilities in active markets at the measurement date. Since valuations are based on quoted prices that are readily and regularly available in an active market, valuation of these products does not entail a significant degree of judgment. Our Level 1 assets consist of bank deposits and money market funds.
- Level 2— Observable inputs other than quoted prices in active markets that are observable either directly or indirectly in the marketplace for identical or similar assets and liabilities. Our Level 2 assets consist of corporate debt securities including commercial paper, government sponsored securities and corporate bonds, as well as foreign municipal securities.
- Level 3— Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

During the periods presented, no transfers were made into or out of the Level 1, 2 or 3 categories. We will continue to review the fair value inputs on quarterly basis.

We utilize a third-party pricing service to assist in obtaining fair value pricing for our investments in marketable debt securities. Inputs are documented in accordance with the fair value disclosure hierarchy.

Recurring Valuations

Financial assets and liabilities measured at fair value on a recurring basis are summarized below at September 30, 2020 and December 31, 2019 (in thousands):

	Fair Value Measurements at September 30, 2020 (Unaudited)			
	Total	**Level 1**	**Level 2**	**Level 3**
Assets:				
Current:				
Cash and cash equivalents	$ 27,688	$ 17,100	$ 10,588	$ —
Corporate debt securities	57,354	—	57,354	—
Commercial paper	3,999	—	3,999	—
Noncurrent:				
Corporate debt securities	769	—	769	—
Total assets measured at fair value	$ 89,810	$ 17,100	$ 72,710	$ —

	Fair Value Measurements at December 31, 2019			
	Total	Level 1	Level 2	Level 3
Assets:				
Current:				
Cash and cash equivalents	$ 15,508	$ 15,508	$ —	$ —
Corporate debt securities	32,389	—	32,389	—
Foreign government bonds	1,007	—	1,007	—
Government sponsored securities	2,748	—	2,748	—
Noncurrent:				
Corporate debt securities	1,497	—	1,497	—
Total assets measured at fair value	$ 53,149	$ 15,508	$ 37,641	$ —

Non-recurring Valuations

Non-financial assets and liabilities are recognized at fair value subsequent to initial recognition when they are deemed to be other-than-temporarily impaired. There were no material non-financial assets and liabilities deemed to be other-than-temporarily impaired and measured at fair value on a non-recurring basis for the three months ended September 30, 2020.

7. Collaboration and License Agreements

Collaborative Arrangements

A collaborative arrangement is a contractual arrangement that involves a joint operating activity. These arrangements involve two or more parties who are (i) active participants in the activity, and (ii) exposed to significant risks and rewards dependent on the commercial success of the activity.

We have entered into the following collaborative arrangements with ImmunityBio, Inc., ImmunityBio, and/or its subsidiaries as described below. ImmunityBio is a related party, as it is an affiliate of NantWorks (Note 9).

Joint COVID-19 Collaboration Development Agreement

On August 21, 2020, we entered into a definitive agreement (the "Collaboration Agreement") with ImmunityBio to pursue collaborative joint development, manufacturing and marketing of certain COVID-19 therapeutics and vaccines. The terms of the Collaboration Agreement supersede and replace the terms of the binding term sheet executed on May 22, 2020, as previously disclosed. Through their efforts, the parties agreed to jointly develop ceNK, haNK, mesenchymal stem cells (MSC), adenovirus constructs (hAd5), and N-803, a novel IL-15 cytokine superagonist, for the prevention and treatment of SARS-CoV-2 viral infections and associated conditions in humans, including without limitation, COVID-19. Pursuant to the Collaboration Agreement, we have contributed our ceNK, haNK, and MSC product candidates and certain of our manufacturing capabilities, and ImmunityBio has contributed their hAd5 and N-803 product candidates. hAd5 has been developed as a vaccine, and ceNK, haNK, MSC and N-803 have each been developed as therapeutics for treating COVID-19 at various stages of infection.

From and after the effective date of the Collaboration Agreement, the parties will share equally in all costs relating to developing and manufacturing of the product candidates globally with the exception of certain laboratory equipment purchases that will be borne solely by us. With the exception of N-803, we will be primarily responsible for the manufacture of each product. Each party will be responsible for the regulatory affairs and the commercialization relating to its contributed products. The global net profits from the collaboration products will be shared 60%/40% in favor of the party contributing the product on which the sales are based except if the parties mutually agree because of certain circumstances. All net profits from sales of combined collaboration products will be shared equally. This collaboration is supervised by a joint steering committee, which is comprised of an equal number of representatives from both parties. The term of the agreement will be five years and it is renewable for an additional five year period upon mutual agreement. Each party will also have a right to terminate in the event of material breach, bankruptcy, or insolvency.

At September 30, 2020, joint research activity under the Collaboration Agreement totaled $3.5 million, which has been included in research and development expense on the condensed consolidated statements of operations. Expenses incurred during the third quarter of 2020 were primarily related to the acquisition of $3.2 million of equipment to be utilized in the manufacture of the hAd5 COVID-19 vaccine candidate, and other net program related costs of $0.3 million after applying the eligible cost sharing under the Collaboration Agreement. Certain equipment purchases made by us during the third quarter of 2020, which are necessary for us to fulfil our manufacturing obligations related to the COVID-19 program, were borne solely by us. These equipment purchases do not have an alternative use and were therefore expensed as incurred within research and development expenses. Prior to the effective date of the Collaboration Agreement, COVID-19 related program costs incurred by us and ImmunityBio, including expenditures related to property, plant and equipment, were the responsibility of each party and not subject to the equal cost sharing. At September 30, 2020, we owed ImmunityBio $0.1 million for net costs incurred under the Collaboration Agreement, which has been included in due to related parties on the condensed consolidated balance sheets.

Cost Sharing Agreement

In January 2020, but effective on October 1, 2019, we entered into a Cost Allocation Agreement with ImmunityBio and its subsidiaries to co-sponsor and conduct certain combination clinical trials (each a Joint Study) pursuant to clinical trial protocols wherein at least one investigational agent is a proprietary therapeutic drug candidate owned or controlled by NantKwest and at least one other investigational agent is a proprietary therapeutic drug candidate owned or controlled by ImmunityBio. Prior to initiating any activities for a Joint Study the parties agreed to enter into written work orders describing, amongst other things, development and management responsibilities, allocation of Joint Study costs and expenses, regulatory responsibilities, and any other matters relating to the Joint Study.

Under the Cost Allocation Agreement, each of ImmunityBio and the company will receive exclusive rights to any new intellectual property developed that relates solely to its respective study drug, and the parties will have joint co-equal rights in any other intellectual property. The Cost Allocation Agreement expires on June 22, 2022 with the option to renew for additional successive one-year terms, but work orders for any joint studies still in process at the time of termination will continue until the applicable study is completed.

We and ImmunityBio are splitting certain costs related to these joint studies equally in accordance with the terms of the Cost Allocation Agreement and related work orders. Shared Joint Study costs include cost related to conducting the Joint Study development activities, such as personnel related costs, as well as all costs associated with regulatory matters. Costs and expenses incurred in connection with the development, manufacturing, supply, delivery, and pre-patient administration dosing mechanism of each party's study drug, are excluded from the shared Joint Study costs.

In January 2020, but effective on October 1, 2019, we executed Work Order Number One with ImmunityBio, pursuant to the Cost Allocation Agreement. Under Work Order Number One, the parties are conducting a clinical trial pursuant to the protocol titled QUILT 3.063: *A phase 2 study of combination therapy with an IL-15 superagonist (N-803), off-the-shelf CD16-targeted natural killer cells (haNK), and avelumab without cytotoxic chemotherapy in subjects with Merkel Cell Carcinoma (MCC) that has progressed on or after treatment with a checkpoint inhibitor*. The ImmunityBio study drug included in this Joint Study is ImmunityBio's proprietary IL-15 superagonist known as N-803, and our study drug is our proprietary "off-the-shelf" CD16-targeted natural killer cell therapy known as haNK. We are the sponsor of this Joint Study for purposes of regulatory matters, including submissions, correspondence, and communications. Additionally, we are designated as the contracting party to execute agreements with third and related parties relating to the Joint Study.

In July 2020, but effective on June 22, 2020, we executed Work Order Number Two with ImmunityBio, pursuant to the Cost Allocation Agreement. Under Work Order Number Two, the parties are conducting a clinical trial pursuant to the protocol titled QUILT 88: *Open-label, randomized, comparative phase 2 study of combination immunotherapy with standard-of-care chemotherapy versus standard-of-care chemotherapy for first and second line treatment of locally or advanced metastatic pancreatic cancer*. The ImmunityBio study drugs included in the joint study are ImmunityBio's proprietary IL-15 superagonist (N-803) and Aldoxorubicin Hydrochloride (Aldoxorubicin), and our study drug is PD-L1.t-haNK. ImmunityBio is the sponsor of this Joint Study for purposes of regulatory matters, including submissions, correspondence, and communications with the FDA. Additionally, ImmunityBio is designated as the contracting party to execute agreements with third and related parties relating to this Joint Study.

During the three and nine months ended September 30, 2020, we incurred net costs of $0.3 million and $0.5 million, respectively, after applying the eligible costs sharing under the Cost Allocation Agreement, which have been recognized in research and development expense on the condensed consolidated statements of operations. At September 30, 2020, our balance owed to ImmunityBio related to the Cost Allocation Agreement was not material.

Exclusive Co-Development Agreement

In August 2016, we entered into an exclusive Co-Development Agreement, or the Co-Development Agreement, with Altor BioScience, LLC, or Altor. Altor is a related party, as it is a wholly owned subsidiary of ImmunityBio (Note 9). Under the Co-Development Agreement, the parties agreed to exclusively collaborate on the development of certain therapeutic applications combining our proprietary NK cells with Altor's N-801 and/or N-803 products with respect to certain technologies and intellectual property rights as may be agreed between the parties for the purpose of jointly developing therapeutic applications of certain effector cell lines.

We are the lead developer for each product developed by the parties pursuant to the Co-Development Agreement unless otherwise agreed to under a given project plan. Under the terms of the Co-Development Agreement, both parties granted a co-exclusive, royalty free, fully paid-up, worldwide license, with the right to sublicense (only to a third-party contractor assisting with research and development activities under this Co-Development Agreement and subject to prior consent, not to be unreasonably withheld), under the intellectual property, or IP, including the parties interest in the joint IP, solely to conduct any development activities agreed to by the steering committee as set forth in any development plan. Unless otherwise mutually agreed by the parties in the development plan for a project, we are responsible for all costs and expenses incurred by either party related to conducting clinical trials and other activities under each development program, including costs associated with patient enrollment, materials and supplies, third-party staffing and regulatory filings. Altor supplies free of charge, sufficient amounts of Altor products for all pre-clinical requirements and certain clinical requirements for up to 400 patients in phase I and/or phase II clinical trials, as required under the development plan for a project per the Co-Development Agreement.

Each company owns an undivided interest in and to all rights, title and interest in and to the joint product rights. The Co-Development Agreement expires upon the fifth anniversary of the effective date. We have dosed patients with N-803, an IL-15 superagonist, in several phase Ib/II trials. No charges for supplies by Altor were incurred in association with the above trials during the three and nine months ended September 30, 2020 and 2019.

8. Commitments and Contingencies

Contingencies

We record accruals for loss contingencies to the extent that we conclude it is probable that a liability has been incurred and the amount of the related loss can be reasonably estimated. We evaluate, on a quarterly basis, developments in legal proceedings and other matters that could cause a change in the potential amount of the liability recorded or of the range of potential losses disclosed. Moreover, we record gain contingencies only when they are realizable, and the amount is known. Additionally, we record our rights to insurance recoveries, limited to the extent of incurred or probable losses, as a receivable when such recoveries have been agreed to with our third-party insurers and when receipt is deemed probable. This includes instances where our third-party insurers have agreed to pay, on our behalf, certain legal defense costs and settlement amounts directly to applicable law firms and a settlement fund.

Securities Litigation

In March 2016, a putative securities class action complaint captioned *Sudunagunta v. NantKwest, Inc., et al.*, No. 16-cv-01947 was filed in federal district court for the Central District of California related to the company's restatement of certain interim financial statements for the periods ended June 30, 2015 and September 30, 2015. A number of similar putative class actions were filed in federal and state court in California. The actions originally filed in state court were removed to federal court, and the various related actions were consolidated. Plaintiffs asserted causes of action for alleged violations of Sections 11 and 15 of the Securities Act of 1933 and Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder. Plaintiffs sought unspecified damages, costs and attorneys' fees, and equitable/injunctive or other relief on behalf of putative classes of persons who purchased or acquired the company's securities during various time periods from July 28, 2015 through March 11, 2016. In September 2017, the court denied defendants' motion to dismiss the third amended consolidated complaint. On August 13, 2018, the district court granted plaintiffs' motions for class certification and to strike plaintiffs' claims under the Securities Exchange Act of 1934 and Rule 10b-5. On August 24, 2018, at the district court's direction, plaintiffs filed a fourth amended consolidated complaint. On August 27, 2018, defendants petitioned the U.S. Court of Appeals for the Ninth Circuit to authorize interlocutory appeal of the class certification order. On September 7, 2018, defendants answered the fourth amended consolidated complaint. On September 21, 2018, the parties informed the Ninth Circuit that they had reached a settlement in principle, and the parties moved to stay appellate proceedings. On September 24, 2018, the parties notified the district court that they had reached a settlement in principle. On November 9, 2018, the plaintiffs filed an unopposed motion for preliminary approval of the settlement and notice to class members. On January 9, 2019, the district court granted the motion for preliminary approval. A final approval hearing was held on April 29, 2019, and the district court granted final approval and entered judgment on May 31, 2019.

Under the terms of the settlement, we paid $12.0 million to the plaintiffs as full and complete settlement of the litigation. We were responsible for $1.2 million of the settlement amount, which was recognized in selling, general and administrative expense during 2018, while the remaining $10.8 million was fully funded by our insurance carriers under our directors' and officers' insurance policy. We and the insurance carriers paid the settlement amount into a settlement fund in January 2019. Subsequent to receiving final approval of the settlement on May 31, 2019, the aforementioned settlement accrual, associated insurance claim receivable and restricted cash were released and are no longer reflected on the accompanying condensed consolidated balance sheets.

Stipulation of Settlement

In early April 2019, following board approval, we entered into a settlement agreement, or the Stipulation of Settlement, with three stockholders of the company, each of whom had submitted a stockholder demand for the board to take action to remedy purported harm to the company resulting from certain alleged wrongful conduct concerning, among other things, disclosures about Dr. Soon-Shiong's compensation and a related-party lease agreement. The Stipulation of Settlement called for us to adopt certain governance changes, and for the three stockholders to file a stockholder derivative action in the Superior Court of the State of California, County of San Diego, followed by an application for court approval of the Stipulation of Settlement. On May 31, 2019, the court entered an order preliminarily approving the Stipulation of Settlement and scheduling the final settlement hearing for August 9, 2019. Pursuant to the Stipulation of Settlement, we have provided stockholders with notice of the settlement and the final settlement hearing.

Under the terms of the Stipulation of Settlement, which received final approval by the court on August 9, 2019, we paid an attorney's fee of $0.5 million to the plaintiffs as part of the settlement. Of that amount, we were responsible for half, which was recognized in selling, general and administrative expense on the condensed consolidated statements of operations during the first quarter of 2019, while the other half was funded by our insurance carrier. We and the insurance carrier paid the settlement amount into a settlement fund in June 2019. Subsequent to receiving final approval of the settlement on August 9, 2019, the aforementioned settlement accrual, associated insurance claim receivable and restricted cash were released and are no longer reflected on the accompanying condensed consolidated balance sheets.

Insurance Recoveries

We have reflected our right to insurance recoveries, limited to the extent of incurred or probable losses, as a receivable when such recoveries have been agreed to with our third-party insurers and receipt is deemed probable. This includes instances where our third-party insurers have agreed to pay, on our behalf, certain legal defense costs and settlement amounts directly to applicable law firms and a settlement fund. The amount of such receivable recorded at December 31, 2019 was $34,000, which is included in prepaid expenses and other current assets on our consolidated balance sheets. There were no such receivables recorded at September 30, 2020.

Contractual Obligations - Leases

Substantially all of our operating lease right-of-use assets and operating lease liabilities relate to facilities leases. We lease: (i) a research facility and office space in San Diego, California; (ii) a research and manufacturing space in Culver City, California, from a related party; (iii) research and manufacturing facilities in El Segundo, California, also from related parties; (iv) a research facility in Torrance, California; and (v) a research facility in Woburn, Massachusetts. See Note 9 – *Related Party Agreements* for further information.

For the three months ended September 30, 2020 and 2019, $1.7 million and $1.3 million, respectively, including variable lease costs of $0.4 million and $0.3 million, respectively, was recorded in operating expenses on the condensed consolidated statements of operations. For the nine months ended September 30, 2020 and 2019, $4.3 million and $3.8 million, respectively, including variable lease costs of $1.1 million and $0.9 million, respectively, was recorded in operating expenses on the condensed consolidated statements of operations.

The weighted-average remaining lease term as of September 30, 2020 and December 31, 2019 was 3.4 years and 4.5 years, respectively. The weighted-average discount rate as of September 30, 2020 and December 31, 2019 was 9%. For the three months ended September 30, 2020 and 2019, cash outflows from operating leases, excluding variable lease costs, was $1.1 million and $1.0 million, respectively. For the nine months ended September 30, 2020 and 2019, cash outflows from operating leases, excluding variable lease costs, was $3.2 million and $3.3 million, respectively.

Future minimum lease payments at September 30, 2020 are presented in the following table (in thousands). Common area maintenance costs and taxes are not included in these payments.

Years ending December 31:	Operating Leases (a)
2020 (excluding the nine months ended September 30, 2020)	$ 1,625
2021	6,563
2022	5,607
2023	2,545
2024	1,083
Thereafter	1,729
Total future minimum lease payments	19,152
Less: Interest	2,551
Present value of operating lease liabilities	$ 16,601

(a) Operating lease payments include $3.9 million related to options to extend lease terms that are reasonably certain of being exercised.

In September 2020, we entered into a sublease agreement with Altor Bioscience Manufacturing Company, LLC, a related party (Note 9), whereby we leased approximately 6,901 square feet in El Segundo, California, including laboratory space and related furniture, fixtures and equipment. The agreement also includes certain non-lease components related primarily to the right to use certain common areas within the building and the related furniture and fixtures. This facility will be used to manufacture and produce clinical products for our oncology product candidate trials. The lease runs from August 2020 through July 2022, and includes an option to extend the lease for an additional one year term through July 2023. The monthly fixed charge related to the agreement is $0.2 million, a portion of which will be subject to annual increases of 3% beginning in November 2020. In addition, under the agreement, we are required to pay our share of estimated property taxes and operating expenses, both of which are variable lease expenses. At inception of the lease we recognized an increase of $4.0 million in both operating lease right-of-use assets and operating lease liabilities on the condensed consolidated balance sheets.

In August 2018, NantBio, Inc., or NantBio, a related party (Note 9), assigned an agreement to us for the use of a third-party research facility, which provides us with the exclusive right to use and access to a portion of the third party's laboratory and vivarium premises. In conjunction with the assignment, we reimbursed NantBio for upfront payments which it had made to the third party of $0.9 million, and paid $0.5 million directly to the third party for an aggregate value of $1.4 million. The assigned agreement is for a term of ten years and expires in June 2027. The agreement may be terminated by us at any time, with or without cause. In case of termination of the agreement, the third party will reimburse us for a pro-rata amount based upon the passage of time.

In September 2016, we entered into a lease agreement with 605 Doug St, LLC, a related party (Note 9), for approximately 24,250 square feet in El Segundo, California, which has been converted to a research and development laboratory and a current good manufacturing practice, or cGMP, manufacturing facility. The lease runs from July 2016 through July 2023. We have the option to extend the lease for an additional three year term through July 2026. The monthly rent is $0.1 million with annual increases of 3% beginning in July 2017.

In March 2016, we entered into a lease agreement for an approximately 7,893 square foot facility in Woburn, Massachusetts, for a research and development laboratory, related office and other related uses. The initial lease term ran for 48 months from April 29, 2016 through May 31, 2020. In June 2016, the lease was amended to add 260 square feet, for a total of 8,153 square feet. Base rent for the initial term of the lease was $19,000 per month with a $1 per square foot annual increase on each anniversary date. In August 2019, we exercised our right pursuant to the lease agreement to extend the term of the lease for an additional two years through May 31, 2022. Consequently, during the third quarter of 2019 we recognized an increase of $0.6 million in both operating lease right-of-use assets and operating lease liabilities on the condensed consolidated balance sheets. Base rent for the extended term of the lease is $25,800 per month with an annual increase of 3% on June 1, 2021.

In November 2015, we entered into a facility license agreement with NantWorks LLC, or NantWorks, a related party (Note 9), for approximately 9,500 square feet of office space in Culver City, California, which has been converted to a research and development laboratory and a cGMP manufacturing facility. The initial license was effective in May 2015 and extends through December 2020. Base monthly rent for the initial lease term is $47,000, with annual increases of 3% beginning in January 2017. In September 2020, we entered into an amendment to extend the term of this lease through December 31, 2021. Commencing on January 1, 2021, the monthly rent will increase by 3% to $54,500. Subsequent to December 31, 2021, the lease term will automatically renew on a month-to-month basis, terminable by either party with at least thirty days' prior written notice to the other party. In addition, we will have a one-time option to extend the lease term through December 31, 2022. If we exercise the option to extend the lease through December 31, 2022, or continue on a month-to-month basis, the monthly rent will increase by 3% annually commencing on January 1 of each year. On the date of amendment we recognized an increase of $1.2 million in both operating lease right-of-use assets and operating lease liabilities on the consolidated balance sheets, which reflects our belief that we will extend the term of this lease through December 31, 2022.

In June 2015, we entered into a lease agreement for an approximately 44,700 square foot facility in San Diego, California, for a research and development laboratory, related office and other related uses. The term of the lease extends for seven years commencing on August 1, 2016. The base rent is $0.2 million per month with 3% annual increases on each anniversary date.

Commitments

We did not enter into any significant contracts during the nine months ended September 30, 2020, other than those disclosed in these unaudited condensed consolidated financial statements.

9. Related Party Agreements

Our Chairman founded and has a controlling interest in NantWorks, which is a collection of multiple companies in the healthcare and technology space. As described below, we have entered into arrangements with NantWorks, and certain affiliates of NantWorks, to facilitate the development of new genetically modified NK cells for our product pipeline. Affiliates of NantWorks are also affiliates of the company due to the common control by and/or common ownership interest of our Chairman.

NantWorks

Under the NantWorks shared services agreement executed in November 2015, but effective August 2015, NantWorks provides corporate, general and administrative, manufacturing strategy, research and development, regulatory and clinical trial strategy, and other support services. We are charged for the services at cost plus reasonable allocations for indirect costs that relate to the employees providing the services.

For the three months ended September 30, 2020 and 2019, we recorded selling, general and administrative expense under this arrangement of $0.5 million and $0.5 million, respectively. For the nine months ended September 30, 2020 and 2019, we recorded selling, general and administrative expense under this arrangement of $1.8 million and $1.7 million, respectively. For the three months ended September 30, 2020 and 2019, we recorded research and development expense under this arrangement of $0.3 million and $0.4 million, respectively. For the nine months ended September 30, 2020 and 2019, we recorded research and development expense under this arrangement of $1.3 million and $1.0 million, respectively. These amounts exclude certain general and administrative expenses provided by third party vendors directly for our benefit, which have been reimbursed to NantWorks based on those vendors' invoiced amounts without markup by NantWorks.

In June 2016, we amended the existing shared services agreement with NantWorks whereby we can provide support services to NantWorks and/or any of its affiliates. For the three months ended September 30, 2020 and 2019, we recorded selling, general and administrative expense reimbursements of $0.4 million and $0.2 million, respectively. For the nine months ended September 30, 2020 and 2019, we recorded selling, general and administrative expense reimbursements of $1.1 million and $0.6 million, respectively. For the three months ended September 30, 2020 and 2019, we recorded research and development expense reimbursements of $0.4 million and $0.6 million, respectively. For the nine months ended September 30, 2020 and 2019, we recorded research and development expense reimbursements of $1.2 million and $1.7 million, respectively.

We owed NantWorks a net amount of $0.7 million and $0.4 million for all agreements between the two affiliates at September 30, 2020 and December 31, 2019, respectively, which is included in due to related parties on the condensed consolidated balance sheets.

In November 2015, we entered into a facility license agreement with NantWorks, which became effective May 2015, for approximately 9,500 square feet in Culver City, California, which has been converted to a research and development laboratory and a cGMP manufacturing facility. In September 2020, we amended this agreement to extend the term of this lease through December 31, 2021, as further described in Note 8 – *Commitments and Contingencies*. Lease expense for this facility is recorded in research and development expense on the condensed consolidated statements of operations and was $0.2 million and $0.1 million for the three months ended September 30, 2020 and 2019, respectively, and $0.5 million and $0.4 million for the nine months ended September 30, 2020 and 2019, respectively.

Immuno-Oncology Clinic, Inc.

Beginning in 2017, we entered into multiple agreements with Immuno-Oncology Clinic, Inc., or the Clinic (dba Chan Soon-Shiong Institutes for Medicine, in El Segundo, California), to conduct clinical trials related to certain of our product candidates. The Clinic is a related party as it is owned by one officer of NantKwest and NantWorks manages the administrative operations of the Clinic. Prior to June 30, 2019, one of the company's officers was an investigator or sub-investigator for all of the company's trials conducted at the Clinic.

In July 2019, we entered into a new agreement with the Clinic (the Clinic Agreement), which became effective on July 1, 2019. The Clinic Agreement, as amended on March 31, 2020, covers clinical trial and research related activities on a non-exclusive basis relating to our existing clinical trials, commenced prior to July 1, 2019, and prospective clinical trials and research projects. The Clinic Agreement also specifies certain services and related costs that are excluded from the Clinic Agreement. Prior to commencing any work under the Clinic Agreement, the parties have agreed to execute written work orders setting forth the terms and conditions related to specific services to be performed, including financial terms. For clinical trials that commenced prior to July 1, 2019, fees incurred for services performed after July 1, 2019 are covered under the Clinic Agreement and applied towards the below-mentioned prepayments. The Clinic Agreement allows for an automatic renewal and additional extensions beyond the initial one year term.

In consideration of the services to be performed under the Clinic Agreement, as amended on March 31, 2020, we agreed to make payments of up to $7.5 million to the Clinic, of which $3.75 million and $1.875 million were paid in July 2019 and October 2019, respectively. As amended, a conditional payment of $1.875 million shall be due and payable at such time, if any, that the payments made in July 2019 and October 2019 have been earned by the Clinic through performance of services. On a quarterly basis our prepayment is increased by an interest credit computed in accordance with terms specified in the Clinic Agreement.

To the extent any portion of the prepayments remain unearned by the Clinic on the third anniversary of the Clinic Agreement, we may elect at our sole discretion either to (i) not extend the term of the Clinic Agreement and have the Clinic reimburse us for the total amount of any remaining unused portion of the prepayments, or (ii) extend the term of the Clinic Agreement for up to three additional one year periods, at which time the Clinic will reimburse us for the total amount of any remaining unused portion of the prepayments plus interest if reimbursement is not made within 60 days of expiration. The Clinic may terminate this agreement upon each anniversary date upon sixty (60) days prior written notice and reimbursement in full to us of any outstanding unearned balance of the prepayments, provided that any such termination by the Clinic will not apply with respect to any work orders still in effect at the time of such termination.

In July 2019, we executed a clinical trial work order under the Clinic Agreement for an open-label, phase I study of PD-L1.t-haNK for infusion in subjects with locally advanced or metastatic solid cancers. In July 2020, but effective June 22, 2020, we and ImmunityBio executed a clinical trial work order under our existing master agreement with the Clinic for an open-label, randomized, comparative phase II study of ImmunityBio's proprietary IL-15 superagonist (N-803) and Aldoxorubicin Hydrochloride (Aldoxorubicin) and our PD-L1.t-haNK with standard-of-care chemotherapy versus standard-of-care chemotherapy for first and second line treatment of locally or advanced metastatic pancreatic cancer.

During the three months ended September 30, 2020 and 2019, $0.1 million and $0.3 million, respectively, has been recognized in research and development expense on the condensed consolidated statements of operations related to clinical trial and research related activities conducted for us by the Clinic. During the nine months ended September 30, 2020 and 2019, $0.3 million and $0.9 million, respectively, has been recognized in research and development expense on the condensed consolidated statements of operations related to clinical trial and research related activities conducted for us by the Clinic. At September 30, 2020 and December 31, 2019, we owed the Clinic $0.2 million and $0.1 million, respectively, for services excluded from the Clinic Agreement, which are included in due to related parties on the condensed consolidated balance sheets. At September 30, 2020 and December 31, 2019, we had prepaid balances related to the Clinic Agreement of $4.8 million and $5.1 million, respectively, which are included in prepaid expenses and other currents assets, and other assets, on the condensed consolidated balance sheets. We anticipate that the remaining prepayment amount as of September 30, 2020 will be utilized in future periods as the Clinic provides additional services pursuant to the Clinic Agreement.

ImmunityBio

ImmunityBio, Inc., or ImmunityBio, is a related party, as it is an affiliate of NantWorks.

On August 21, 2020, we entered into a Collaboration Agreement with ImmunityBio as further described in Note 7 – *Collaboration and License Agreements*. At September 30, 2020, the joint research activity under the Collaboration Agreement totaled $3.5 million, which has been included in research and development expense on the condensed consolidated statements of operations. Expenses incurred during the third quarter of 2020 were primarily related to the acquisition of $3.2 million of equipment to be utilized in the manufacture of the human adenovirus, or hAd5, vaccine candidate, and other net program related costs of $0.3 million after applying the eligible cost sharing under the Collaboration Agreement. Certain equipment purchases made by us during the third quarter of 2020, which are necessary for us to fulfil our manufacturing obligations related to the COVID-19 program, were borne solely by us. These equipment purchases do not have an alternative use and were therefore expensed as incurred within research and development expenses. Prior to the effective date of the Collaboration Agreement, COVID-19 related program costs incurred by us and ImmunityBio, including expenditures related to property, plant and equipment, were the responsibility of each party and not subject to the equal cost sharing. At September 30, 2020, we owed ImmunityBio $0.1 million for net costs incurred under the Collaboration Agreement, which has been included in due to related parties on the condensed consolidated balance sheets.

In January 2020, we entered into a Cost Allocation Agreement with ImmunityBio which (together with related work orders) is described further in Note 7 – *Collaboration and License Agreements*. During the three and nine months ended September 30, 2020, we incurred net costs of $0.3 million and $0.5 million, respectively, after applying the eligible costs sharing under the Cost Allocation Agreement, which have been recognized in research and development expense on the condensed consolidated statements of operations. At September 30, 2020, our balance owed to ImmunityBio related to the Cost Allocation Agreement was not material.

In August 2016, we entered into an exclusive Co-Development Agreement with Altor as described in Note 7 – *Collaboration and License Agreements*. Altor is a related party as it is a wholly owned subsidiary of ImmunityBio. No charges for supplies by Altor were incurred in association with the Co-Development Agreement during the three and nine months ended September 30, 2020 and 2019.

In June 2015, we entered into a supply agreement with ImmunityBio pursuant to which we have the right to purchase ImmunityBio's proprietary bioreactors, made according to specifications mutually agreed to with ImmunityBio. We also have the right to purchase reagents and consumables associated with such equipment from ImmunityBio. When an upfront payment is made, it is included in prepaid expenses on the condensed consolidated balance sheets until the product is received. The agreement has an initial term of five years and renews automatically for successive one-year periods unless terminated earlier.

At September 30, 2020 and December 31, 2019, we had $3.2 million and $1.8 million, respectively, in capitalized equipment purchased from ImmunityBio, which is included in property, plant and equipment, net, on the condensed consolidated balance sheets. During the three months ended September 30, 2020 and 2019, we recorded research and development expense associated with reagents and consumables purchased from ImmunityBio of $0.2 million and $12,900, respectively, on the condensed consolidated statements of operations. During the nine months ended September 30, 2020 and 2019, we recorded research and development expense associated with reagents and consumables purchased from ImmunityBio of $0.3 million and $0.1 million, respectively, on the condensed consolidated statements of operations.

At September 30, 2020 and December 31, 2019 we had $0.1 million and $0.5 million, respectively, included in prepaid expenses and other current assets on the condensed consolidated balance sheets related to consumables purchased from ImmunityBio.

Altor Bioscience Manufacturing Company, LLC Sublease Agreement

In September 2020, we entered into a sublease agreement with Altor Bioscience Manufacturing Company, LLC, a related party, whereby we leased approximately 6,901 square feet in El Segundo, California, including laboratory space and related furniture, fixtures and equipment. The agreement also includes certain non-lease components related primarily to the right to use certain common areas within the building and the related furniture and fixtures. This facility will be used to manufacture and produce clinical products for our oncology product candidate trials. The lease runs from August 2020 through July 2022, and includes an option to extend the lease for an additional one year term through July 2023. The monthly fixed charge related to the agreement is $0.2 million, a portion of which will be subject to annual increases of 3% beginning in November 2020. In addition, under the agreement, we are required to pay our share of estimated property taxes and operating expenses, both of which are variable lease expenses. Lease expense for this facility is recorded in research and development expense on the condensed consolidated statements of operations and was $0.4 million during the three months ended September 30, 2020. At September 30, 2020, we owed $0.4 million under this agreement related to fixed and variable lease costs covering the period from August 1, 2020 through September 30, 2020.

605 Doug St. LLC

In September 2016, we entered into a lease agreement with 605 Doug St, LLC, an entity owned by our Chairman, for approximately 24,250 square feet in El Segundo, California, which has been converted to a research and development laboratory and a cGMP manufacturing facility. The lease runs from July 2016 through July 2023. We have the option to extend the lease for an additional three-year term through July 2026. The monthly rent is $0.1 million with annual increases of 3% beginning in July 2017. Lease expense for this facility is recorded in research and development expense on the condensed consolidated statements of operations and was $0.2 million and $0.7 million for each of the three and nine months ended September 30, 2020 and 2019, respectively. At September 30, 2020 and December 31, 2019, no balances were due between the parties.

NantBio

In March 2016, NantBio and the National Cancer Institute entered into a cooperative research and development agreement. The initial five year agreement covers NantBio and its affiliates, including us. Under the agreement, the parties are collaborating on the preclinical and clinical development of proprietary recombinant natural killer cells and monoclonal antibodies in monotherapy and in combination immunotherapies. We benefited from the preclinical and clinical research conducted during the first four years under this agreement. In each of the contractual years under the agreement we paid $0.6 million to the National Cancer Institute as a prepayment for services under the agreement. We recognize research and development expense related to this agreement ratably over a 12-month period for each funding year and recorded $0.2 million and $0.5 million of expense associated with the agreement in each of the three and nine months ended September 30, 2020 and 2019, respectively. As of September 30, 2020 and December 31, 2019, we had a balance of $0.3 million and $0.1 million, respectively, included in prepaid expenses and other current assets related to this agreement, on the condensed consolidated balance sheets.

10. Stockholders' Equity

Equity Offering – On June 29, 2020, the company closed an underwritten public offering of an aggregate of 8,521,500 shares of common stock, which included 4,811,500 shares issued to the public at a price of $9.50 per share (which includes 1,111,500 shares sold to the public upon full exercise of the underwriters' option to purchase additional shares at a public offering price of $9.50 per share), less underwriting discounts and commissions, and 3,710,000 shares issued to our Chairman and principal stockholder, Dr. Patrick Soon-Shiong, at a price of $12.12 per share, less underwriting discounts and commissions. All of the shares were offered by the company. Including the underwriters' option exercise, the aggregate gross proceeds from the offering were approximately $90.7 million, before deducting underwriting discounts, commissions and other offering expenses of approximately $4.4 million.

Stock Repurchase – In November 2015, the board of directors approved a share repurchase program, or the 2015 Share Repurchase Program, allowing the CEO or CFO, on behalf of the company, to repurchase from time to time, in the open market or in privately negotiated transactions, up to $50.0 million of our outstanding shares of common stock, exclusive of any commissions, markups or expenses. The timing and amounts of any purchases were and will continue to be based on market conditions and other factors, including price, regulatory requirements and other corporate considerations. The 2015 Share Repurchase Program does not require the purchase of any minimum number of shares and may be suspended, modified, or discontinued at any time without prior notice. We have financed, and expect to continue to finance, the purchases with existing cash balances. At September 30, 2020, $18.3 million remained authorized for repurchase under the 2015 Share Repurchase Program. No shares were repurchased during the nine months ended September 30, 2020. During the nine months ended September 30, 2019, we repurchased 473,586 shares of our common stock at prices ranging between $0.95 per share and $1.09 per share for a total cost of $0.5 million. In addition, we paid $14,200 of broker commissions on these repurchases. The shares are formally retired through board approval upon repurchase.

In July 2015, the company's board of directors adopted and the company's stockholders approved the 2015 Equity Incentive Plan, or the 2015 Plan. The 2015 Plan is the only equity plan of the company available for grant of equity awards to employees, directors and consultants of the company. In April 2019, the company's board of directors adopted, and in June 2019 the company's stockholders approved, a first amendment to the 2015 Plan to reserve a further 3,000,000 shares of common stock for issuance pursuant to the 2015 Plan. In March 2020, the company's board of directors adopted, and in June 2020 the company's stockholders approved, a second amendment to the 2015 Plan to reserve a further 3,000,000 shares of common stock for issuance pursuant to the 2015 Plan. As of September 30, 2020, a total of approximately 10.2 million shares of common stock were reserved for issuance pursuant to the 2015 Plan and a total of approximately 7.2 million shares were available for future grant.

11. Stock-Based Compensation

The following table presents all stock-based compensation as included on the condensed consolidated statements of operations (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2020	2019	2020	2019
	(Unaudited)		(Unaudited)	
Stock-based compensation expense:				
Employee stock options	$ 545	$ 103	$ 842	$ 1,204
Employee RSUs	143	79	516	642
Non-employee RSUs	23	95	114	304
	$ 711	$ 277	$ 1,472	$ 2,150
Stock-based compensation expense in operating expenses:				
Research and development	$ 76	$ 98	$ 149	$ 359
Selling, general and administrative	635	179	1,323	1,791
	$ 711	$ 277	$ 1,472	$ 2,150

Stock Options

The following table summarizes stock option activity under all equity incentive plans for the nine months ended September 30, 2020:

	Number of Shares	Weighted-Average Exercise Price	Aggregate Intrinsic Value (in thousands)	Weighted-Average Remaining Contractual Life (in years)
Outstanding at December 31, 2019	4,506,950	$ 9.37	$ 5,710	5.8
Options granted	400,000	$ 6.21		
Options exercised	(1,142,273)	$ 1.88		
Options forfeited	(116,667)	$ 3.07		
Outstanding at September 30, 2020	3,648,010	$ 11.57	$ 9,374	5.7
Vested and Exercisable at September 30, 2020	2,960,508	$ 13.12	$ 7,973	4.9

Unrecognized compensation cost related to unvested stock options at September 30, 2020 was $1.9 million, which is expected to be recognized over a weighted-average period of 1.1 years.

During the three and nine months ended September 30, 2020, we recognized proceeds of $0.4 million and $0.9 million, respectively, from exercises of stock options. The aggregate intrinsic value of stock options exercised during the three and nine months ended September 30, 2020, was $8.7 million and $10.6 million, respectively. During the nine months ended September 30, 2019, we recognized proceeds of $4.1 million from exercises of stock options by our Chairman during March 2019.

The company uses a Black-Scholes option-pricing model to determine the fair value of stock-based compensation under U.S. GAAP. The assumptions used for employee stock options granted during the periods presented in these condensed consolidated financial statements are presented in the table below for the nine months ended September 30, 2020 (Unaudited):

Expected term (in years)	5.5
Risk-free interest rate	0.4%
Expected volatility	96.8%
Dividend yield	0.0%
Weighted-average grant date fair value	$ 4.64

The expected term was estimated using the average of the contractual term and the weighted-average vesting term of the options. The risk-free interest rate assumption was based on the U.S. Treasury's rates for U.S. Treasury zero-coupon bonds with maturities similar to those of the expected term of the awards being valued. Expected volatility was estimated based on the historical volatility of our common stock. The assumed dividend yield was based on the company's expectation of not paying dividends for the foreseeable future.

Restricted Stock Units

The following table summarizes the restricted stock units, or RSUs, activity under the 2015 Plan for the nine months ended September 30, 2020:

	Number of Shares	Weighted-Average Grant Date Fair Value
Unvested balance at December 31, 2019	1,139,428	$ 2.23
Granted	33,500	$ 6.43
Vested	(642,236)	$ 2.04
Forfeited	(50,400)	$ 4.77
Unvested balance at September 30, 2020	480,292	$ 2.52

As of September 30, 2020, there was $0.8 million of unrecognized stock-based compensation expense related to RSUs that is expected to be recognized over a weighted-average period of 2.0 years. Of that amount, $0.8 million of unrecognized expense is related to employee grants with a remaining weighted-average period of 2.0 years and $14,700 of unrecognized expense is related to non-employee grants with a remaining weighted-average period of 0.5 years.

Warrants

During the nine months ended September 30, 2019, we recognized proceeds of $35.2 million upon the exercise of warrants by our Chairman during March 2019. As of December 31, 2019 there were no warrants outstanding, and there were no warrants issued during the nine months ended September 30, 2020.

12. Income Taxes

The difference between the federal statutory tax rate of 21% and our 0% tax rate is due to losses in jurisdictions from which we cannot benefit.

Prior to the adoption of ASU 2019-12 in the first quarter of 2020, as described in Note 2, intraperiod tax allocation rules required us to allocate the provision for income taxes between continuing operations and other categories of earnings, such as other comprehensive income. In periods in which we had a year-to-date pre-tax loss from continuing operations and pre-tax income in other categories of earnings, such as other comprehensive income, we had to allocate the tax provision to the other categories of earnings. We then recorded a related tax benefit in continuing operations. However, with the adoption of ASU 2019-12, we are no longer required to allocate the tax provision to the other categories of earnings and related benefit to continuing operations under these circumstances.

We recorded unrealized gains on marketable debt securities in other comprehensive income during the three and nine months ended September 30, 2019. As a result, we recorded a tax expense of $0 for the three months ended September 30, 2019 and a tax benefit of $34,000 for the nine months ended September 30, 2019 on the condensed consolidated statements of operations. We also recorded a reduction to other comprehensive income of $0 for the three months ended September 30, 2019, and a reduction of $0.1 million for the nine months ended September 30, 2019 on the condensed consolidated balance sheets.

We are operating in Korea. During the three and nine months ended September 30, 2020 and 2019, there was no tax expense or benefit related to Korea.

We currently file federal and state income tax returns in the U.S. and file Korean statutory tax returns. Income tax expense consists of U.S. federal, state, and Korean income taxes. To date, we have not been required to pay U.S. federal and state income taxes because of current and accumulated net operating losses.

On March 27, 2020, the U.S. enacted the Coronavirus Aid, Relief and Economic Security Act, or the CARES Act. The CARES Act is an emergency economic stimulus package that includes spending and tax breaks to strengthen the U.S. economy and fund a nationwide effort to curtail the effect of the coronavirus pandemic. While the CARES Act provides sweeping tax changes in response to the pandemic, some of the more significant provisions which are expected to impact our financial statements include removal of certain limitations on utilization of net operating losses, increasing the loss carryback period for certain losses to five years, and increasing the ability to deduct interest expense, as well as amending certain provisions of the previously enacted Tax Cuts and Jobs Act. Consistent with previous years, we expect to continue to generate net losses in the foreseeable future. We currently have significant federal and state deferred tax assets attributed to prior net operating losses and research and experimentation tax credits. These deferred taxes are fully reserved. As we have never generated taxable income, the CARES Act feature allowing net operating losses originating in 2018, 2019 or 2020 to be carried back five years is not expected to have a significant impact. Management does not expect any other provisions of the CARES Act to have a material impact on our financial position, results of operations or cash flows during 2020.

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

Forward-Looking Statements

The following discussion and analysis should be read together with our condensed consolidated financial statements and the notes to those statements included elsewhere in this Quarterly Report on Form 10-Q, or Quarterly Report. This Quarterly Report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or Exchange Act, that are based on our management's beliefs and assumptions and on information currently available to our management. The forward-looking statements are contained principally in the section entitled "Risk Factors" and this Management's Discussion and Analysis of Financial Condition and Results of Operations. Forward-looking statements include, but are not limited to:

- our ability to pioneer immunotherapy, harness the power of the innate immune system, implement precision cancer medicine and change the current paradigm of cancer care;
- our ability to implement and support the Joint COVID-19 Collaboration;
- any impact of the coronavirus pandemic, or responses to the pandemic, on our business, clinical trials or personnel;
- our expectations regarding the potential benefits of our strategy and technology;
- our expectations regarding the operation of our product candidates and related benefits;
- our ability to utilize multiple modes to induce cell death;
- our beliefs regarding the benefits and perceived limitations of competing approaches, and the future of competing technologies and our industry;
- details regarding our strategic vision and planned product candidate pipeline, including that we eventually plan to advance therapies for virally induced infectious diseases;
- our beliefs regarding the success, cost and timing of our product candidate development activities and current and future clinical trials and studies, including study design;
- our expectations regarding our ability to utilize the phase I and II aNK and haNK clinical trials data to support the development of all of our product candidates, including our haNK, taNK, t-haNK, MSC and ceNK product candidates;
- the timing or likelihood of regulatory filings or other actions and related regulatory authority responses, including any planned investigational new drug, or IND, filings or pursuit of accelerated regulatory approval pathways or orphan drug status and breakthrough therapy designations;
- our ability to implement an integrated discovery ecosystem and the operation of that planned ecosystem, including being able to regularly add neoepitopes and subsequently formulate new product candidates;
- the ability and willingness of strategic collaborators, including certain affiliates of NantWorks, LLC, or NantWorks, to share our vision and effectively work with us to achieve our goals;
- the ability and willingness of various third parties to engage in research and development activities involving our product candidates, and our ability to leverage those activities;
- our ability to attract additional third party collaborators;
- our expectations regarding the ease of administration associated with our product candidates;
- our expectations regarding the patient compatibility associated with our product candidates;
- our beliefs regarding the potential markets for our product candidates and our ability to serve those markets;
- our ability to produce an "off-the-shelf" therapy;
- our beliefs regarding the potential manufacturing and distribution benefits associated with our product candidates, and our ability to scale up the production of our product candidates;
- our plans regarding our manufacturing facility and our belief that our manufacturing is capable of being conducted in-house;
- our belief in the potential of our aNK cells as a technology platform, and the fact that our business is based upon the success of our aNK cells as a technology platform;

- our aNK platform and other product candidate families, including genetically modified haNK, taNK, t-haNK, MSC and ceNK product candidates, will require significant additional clinical testing;
- even if we successfully develop and commercialize our haNK and t-haNK product candidates, we may not be successful in developing and commercializing our other product candidates either alone or in combination with other therapeutic agents;
- the ability to obtain and maintain regulatory approval of any of our product candidates, and any related restrictions, limitations and/or warnings in the label of any approved product candidate;
- our ability to commercialize any approved products;
- the rate and degree of market acceptance of any approved products;
- our ability to attract and retain key personnel;
- the accuracy of our estimates regarding our future revenue, as well as our future operating expenses, capital requirements and needs for additional financing;
- our ability to obtain funding for our operations, including funding necessary to complete further development and any commercialization of our product candidates;
- our ability to obtain and maintain intellectual property protection for our product candidates and not infringe upon the intellectual property of others;
- our expected use of the net proceeds from our June 2020 equity offering;
- regulatory developments in the United States, or U.S., and foreign countries; and
- our expectations regarding the period during which we qualify as an "emerging growth company" under the JOBS Act, and a "smaller reporting company," as defined in Rule 12b-2 of the Securities Exchange Act of 1934.

Forward-looking statements include statements that are not historical facts and can be identified by terms such as "anticipates," "believes," "could," "seeks," "estimates," "expects," "intends," "may," "plans," "potential," "predicts," "projects," "should," "will," "would," or similar expressions and the negatives of those terms. In addition, statements that "we believe" and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this Quarterly Report, and although we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted a thorough inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain and investors are cautioned not to unduly rely upon these statements.

Forward-looking statements involve known and unknown risks, uncertainties, and other factors that may cause our actual results, performance, or achievements to be materially different from any future results, performance, or achievements expressed or implied by the forward-looking statements. We discuss these risks in greater detail in Part II, Item 1A, "Risk Factors," elsewhere in this Quarterly Report filed with the Securities and Exchange Commission, or SEC. Given these uncertainties, you should not place undue reliance on these forward-looking statements. Also, forward-looking statements represent our management's beliefs and assumptions only as of the date of this Quarterly Report.

Except as required by law, we assume no obligation to update these forward-looking statements, or to update the reasons actual results could differ materially from those anticipated in these forward-looking statements, even if new information becomes available in the future. You should read this Quarterly Report completely and with the understanding that our actual future results may be materially different from what we expect.

This Quarterly Report contains references to our trademarks and to trademarks belonging to other entities. Solely for convenience, trademarks and trade names referred to in this Quarterly Report, including logos, artwork and other visual displays, may appear without the ® or TM symbols, but such references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or the rights of the applicable licensor to these trademarks and trade names. We do not intend our use or display of other companies' trade names or trademarks to imply a relationship with, or endorsement or sponsorship of us by, any other companies.

In this Quarterly Report, "NantKwest," "the company," "we," "us" and "our" refer to NantKwest, Inc. and its subsidiaries.

Overview

We are a pioneering clinical-stage immunotherapy company focused on harnessing the power of the innate immune system by using our natural killer cells, or NK cells, to treat cancer and viral infectious diseases. NK cells are the body's first line of defense due to their innate ability to rapidly seek and destroy abnormal cells, such as cancer or virally infected cells, without prior exposure or co-activation by other support molecules that are typically required to train and activate adaptive immune cells such as T-cells.

A critical aspect of our strategy is to invest significantly in innovating new therapeutic candidates, based upon our proprietary activated NK, or aNK, cell platform, and conducting clinical testing and scale manufacturing of our most promising biologic product candidates. We believe our aNK cell is capable of being manufactured as a cell-based "off-the-shelf" therapy that can be molecularly engineered in a variety of ways to boost its killing capabilities against cancers and virally infected cells.

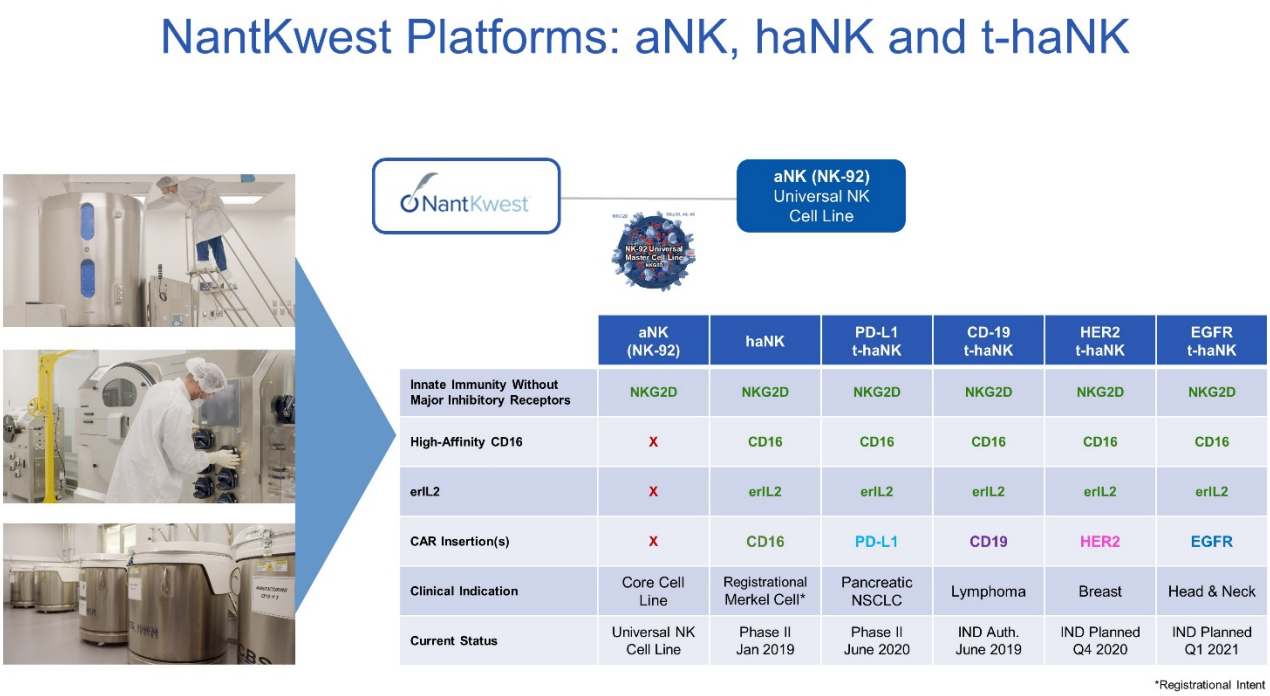
We retain worldwide commercial rights to clinical and research data, intellectual property and know-how developed with our aNK cells, as well as what we believe is the only clinical grade master cell bank of aNK cells in existence.

Equity Offering

On June 29, 2020, the company closed an underwritten public offering of an aggregate of 8,521,500 shares of common stock, which included 4,811,500 shares issued to the public at a price of $9.50 per share (which included 1,111,500 shares sold to the public upon full exercise of the underwriters' option to purchase additional shares at a public offering price of $9.50 per share), less underwriting discounts and commissions, and 3,710,000 shares issued to our Chairman and principal stockholder, Dr. Patrick Soon-Shiong, at a price of $12.12 per share, less underwriting discounts and commissions. All of the shares were offered by the company. Including the underwriters' option exercise, the aggregate gross proceeds from the offering were approximately $90.7 million, before deducting underwriting discounts, commissions and other offering expenses of approximately $4.4 million.

Our Off-the-Shelf Approach

Our NK platforms have demonstrated the ability to induce cell death in cancers and virally infected cells through a variety of concurrent mechanisms including innate killing, antibody-mediated killing, chimeric antigen receptor (CAR)-directed killing and a combination of both antibody mediated and CAR-directed killing.



Innate Killing—the aNK Platform. We have developed a unique NK cell platform, which we believe is capable of being manufactured as a cell-based "off-the-shelf" therapy that can be molecularly engineered in a variety of ways to boost its killing capabilities against cancers and virally infected cells. Unlike normal natural killer cells, our NK cells do not express the key inhibitory receptors that diseased cells often exploit to turn off the killing function of natural killer cells and escape elimination. We have developed a unique aNK cell, which omits key inhibitory receptors, while preserving critical activation receptors that enable selective innate targeting and killing of distressed and diseased cells. They do so through the recognition and binding of stress-proteins that are overexpressed on the surfaces of

i. rapidly growing cancer cells due to oxidative and metabolic stress, nutrient deprivation and waste accumulation that typically occurs when cell growth outpaces the capacity of local circulation; and

ii. virally infected cells where the cellular machinery is hijacked to produce an abundance of viral proteins and virions.

Our aNK cells are also designed to deliver a more lethal blow to their target by delivering a larger payload of lytic enzymes and cytokines responsible for both direct and indirect killing when compared to other natural killer cells isolated from healthy donors. This is due to the higher density of lytic granules and larger cell volume possessed by aNK cells when compared to that of donor derived natural killer cells. We believe that our aNK cells can be produced at commercial scale as a 'living drug' using our proprietary manufacturing and distribution processes to adequately address select global cancer markets.

Several phase I safety studies with unmodified aNK cells have been conducted in a variety of bulky hematological cancers and solid tumors, enrolling 46 patients in a range of dose levels and schedules with encouraging evidence of single-agent activity and a durable remission, including some complete responses in liquid tumors. Based on these earlier clinical trials, we have further modified our aNK platform through virus-free molecular engineering designed to leverage additional modes of killing available to aNKs, including antibody-mediated killing, the haNK platform, and both antibody-mediated and CAR-directed antigen targeted killing, the t-haNK platform.

Antibody-Mediated Killing—the haNK Platform. We have genetically engineered our aNK cell platform to overexpress high-affinity CD16 receptors, which bind to antibodies. These antibody-targeted haNK cells are designed to directly bind to IgG1-type antibodies, such as avelumab, trastuzumab, cetuximab and rituximab with the intention of enhancing the cancer killing efficacy of these antibodies by boosting the population of competent natural killer cells that can kill cancer cells through Antibody Dependent Cellular Cytotoxicity, or ADCC. Antibody products are abundantly utilized to treat cancer and it is estimated that they generate over $100 billion in reported annual sales. A growing number of studies suggest that clinically meaningful responses to these antibody therapies correlate directly with the overall health of a patient's natural killer cell population and whether they express the high-affinity variant of the CD16 receptor. Currently available literature estimates that only approximately 10% to 15% of the addressable patient population eligible for antibody therapies carry high-affinity CD16 receptors. This implies that our haNK product candidate may have significant market potential as a combination therapy to potentially address a large number of patients who do not carry high-affinity CD16 receptors and, as a result, exhibit a poorer response to antibody therapies. We therefore intend to develop our haNK product candidate as a combination therapy with widely-used U.S. Food and Drug Administration, or FDA, approved antibody products such as avelumab, trastuzumab, cetuximab and rituximab. Current Good Manufacturing Practice, or cGMP, master and working cell banks of our haNK product candidate have been successfully established and will serve as our source for product for our clinical trials and, if approved, commercialization going forward. We have optimized our manufacturing process partly by designing our haNK product candidate to not require IL-2 cytokine supplementation to the growth media every few days, thereby enabling us to overcome a technically challenging and costly limitation that many other natural killer cell-based therapies face. We have also successfully established processes for large-scale production, cryopreservation and long-term storage of final dose forms, thereby optimizing production efficiencies and allowing for on-demand availability with minimal handling at the infusion sites. Our cryopreserved haNK product candidate has been cleared for clinical testing in several phase Ib/II clinical trials, including our phase II Merkel cell cancer study.

CAR-Directed Killing—the taNK Platform. We have genetically engineered our aNK platform to express CARs that target tumor-specific antigens found on the surfaces of cancers and virally infected cells. Our taNK cells are designed to bind directly to these surface antigens and induce cell death through the release of toxic granules directly into the tumor cells and release of cytokines and chemokines to recruit additional innate and adaptive immune responses, including the recruitment of cytotoxic T-cells. These tumor antigens encompass four categories of proteins, all of which can be targeted individually by our engineered taNK products:

i. Checkpoint ligands, such as PD-L1;

ii. Well-established tumor proteins such as CD19, HER2 and EGFR;

iii. Novel surface antigens associated with cancer stem cells, such as CD123 and IGF-R1; and

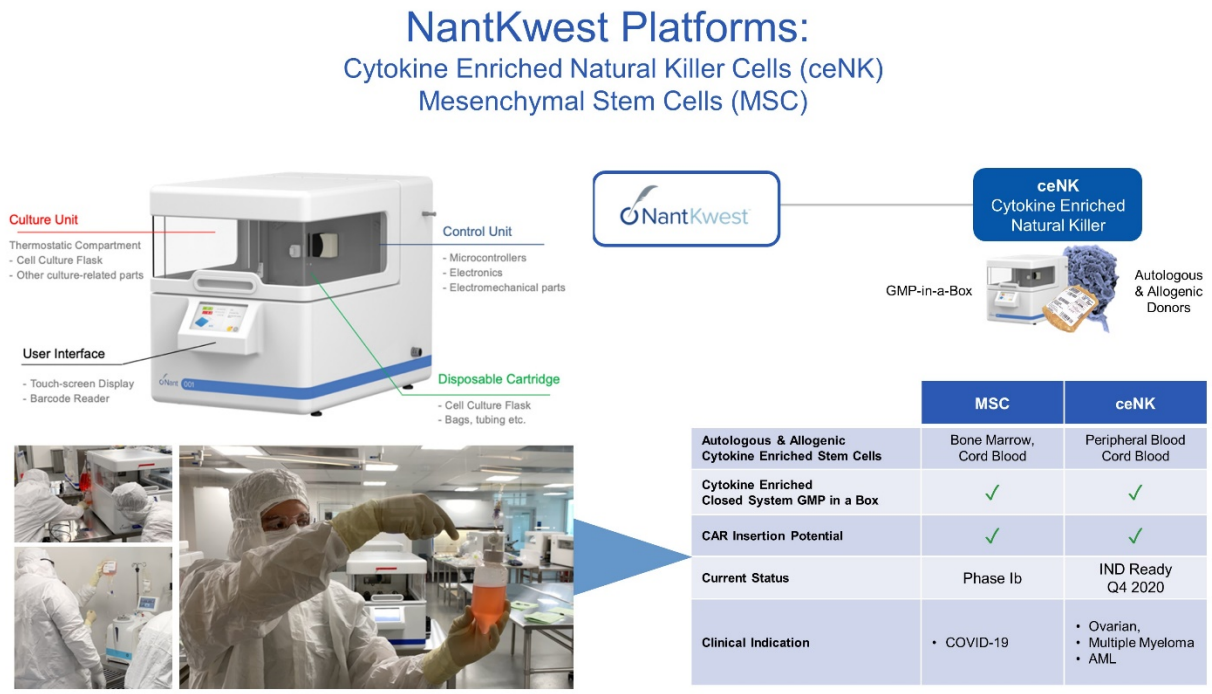
iv. Newly discovered proteins, or neoepitopes, from individual patient tumor samples.

Preclinical evidence has been mounting which indicates that taNK cell activation through the binding of its CAR receptors to these cancer specific proteins may be potent enough to override many of the pre-existing inhibitory signals and immunosuppressive factors present in the tumor microenvironment that may be responsible for tumor resistance.

CAR-Directed and Antibody-Mediated Killing—the t-haNK Platform. Our newest and most promising platform for the development of therapeutic product candidates is an innovative, bioengineered combination of our haNK and taNK platforms that incorporates all the features of our haNK platform together with a CAR. The resulting line of product candidates under this platform avails itself to all three modes of killing: *innate*, *antibody-mediated* and *CAR-directed killing*. These product candidates also include one or more additional expression elements such as functional cytokines, chemokines and trafficking factors, making them amongst the most versatile in our portfolio. These product candidates are intended to be combined with commercially available therapeutic antibodies to effectively target either two different epitopes of the same cancer specific protein or two entirely different cancer specific proteins. In addition to our two t-haNK product candidates, PD-L1.t-haNK, recently cleared to commence phase II testing, and CD19.t-haNK, cleared to commence phase I testing, we believe a pipeline of prominent CARs for t-haNK, including HER2 and EGFR, which are nearing IND submission, and others that are advancing through clinical enabling studies, will enable us to potentially address an even broader range of cancers as part of a chemotherapy-free combination regimen.

Our GMP-in-a-Box Approach

NantKwest is a leading company in the efforts to generate allogeneic and autologous-sourced cell based products, the most advanced of which are our cytokine enriched memory-like NK, or ceNK, and mesenchymal stem cell, or MSC, therapeutics. We utilize a scalable GMP production process that combines the use of ImmunityBio's (a related party) semi-automated manufacturing equipment and software, cytokine expansion and activation reagents, including ImmunityBio's N-803, and unique user-friendly processing methods, all of which are proprietary. We have optimized processes for generating both fresh and cryopreserved clinical dose forms of ceNK cells with 100% purity (in the allogeneic setting) from a variety of sources, including cord blood and allogeneic and autologous peripheral blood. We have also optimized processes for generating fresh and cryopreserved clinical dose forms of MSCs from cord blood, cord tissue and allogeneic bone marrow sources. We avoid the use of both feeder-layers and feeder-layer derived substances for activation as well as other commonly applied additives that frequently create downstream issues in achieving a high-quality, operator-friendly reproducible final dose form and have been able to generate multiple dose forms from each donor product, both of which are critical features in achieving scalability.



Cytokine Enriched Natural Killer (ceNK) Cell Platform. Cytokine-induced memory-like NK cells are a unique set of lymphocytes that differentiate after a brief pre-activation with interleukin-12 (IL-12), IL-15, and IL-18 and exhibit enhanced responses to cytokine re-stimulation that include enhanced interferon-g production and cytotoxicity against leukemic cell lines. These cells have been isolated and characterized by their unique cell-surface marker profile and their highly desirable feature of immune-memory, marked by their pronounced anti-cancer activity for weeks to months in duration, which has made these cells a research focus for more than a decade.

Based on published literature, we believe the ability to generate these memory-like cells at clinically meaningful quantities has been limited to the work performed at Washington University by T.A. Fehniger, et al. Published data so far has been limited to the acute myeloid leukemia patient population in the post-allogeneic, haploidentical stem cell transplantation setting, for which the Fehniger group has generated enough cells to provide a one-time dose of these cytokine-activated, memory-like natural killer cells.

Our cytokine enriched natural killer cell program is based on the ability to enrich and expand donor-sourced natural killer cells in a GMP facility to a clinically relevant scale, which allows for the production of a pure cytokine activated and expanded NK cell population that possesses the unique phenotype we call ceNK cells.

We have developed a unique ability to generate a portfolio of distinct ceNK cell products through the application of ImmunityBio's proprietary GMP-in-a-Box bioreactors and cytokines and our proprietary methods and overall expertise in scale manufacturing of NK cell based products.

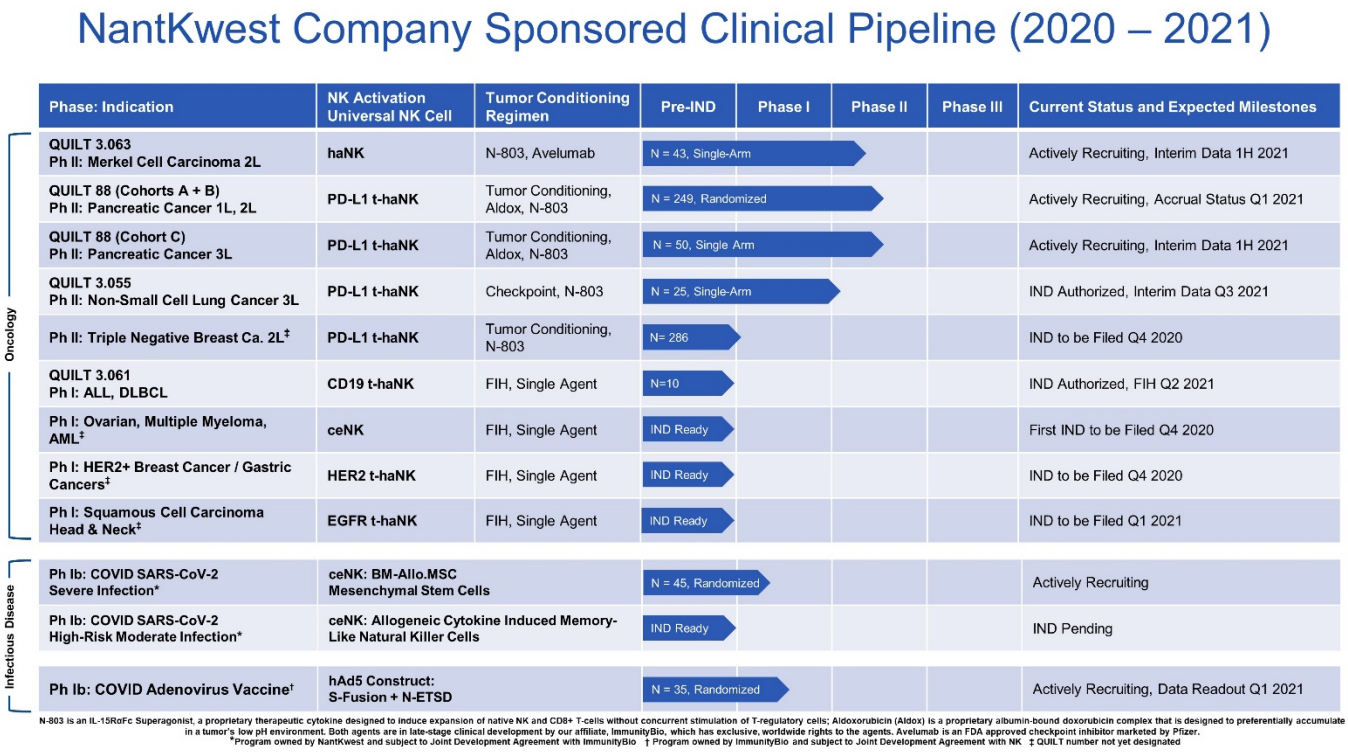
Mesenchymal Stem Cell (MSC) Platform. Bone marrow-derived allogeneic MSCs are considered to be a prominent cell type to treat degenerative diseases and autoimmune disorders. MSCs are reported to be immunoprivileged, allowing for transplantation of allogeneic MSCs without the risk of being rejected by the host immune system. MSCs have been found to be capable of modulating immune responses, thereby reducing inflammation as well as immunopathology and protecting alveolar epithelial cells during acute respiratory distress syndrome, or ARDS, including that triggered by cytokine storm. More importantly, MSCs demonstrated promising activity in reducing the non-productive inflammation and in promoting lung generation in a phase II clinical trial, as well as in patients with ARDS in clinical practice. As a result, we believe MSCs have the potential to alleviate the SARS-CoV-2-derived cytokine storm and ARDS, and thereby have an effect on the treatment of subsequent chronic respiratory dysfunction and lung fibrosis.

We have developed and optimized procedures and proprietary protocols to generate multiple dose forms of MSC products from a single bone marrow or cord sample, in a scalable format using ImmunityBio's GMP-in-a-Box system.

Development Update on our Product Candidates

Our leading programs reside in two core disease areas: Oncology, which includes our haNK and PD-L1.t-haNK programs, and COVID-19, which includes our BM-Allo-MSC and ceNK programs. We also have a pipeline of IND-ready t-haNK and ceNK projects in both solid and liquid cancers.

The following table summarizes our current development programs:



QUILT 3.063 is our phase II, open-label, single-arm trial evaluating the novel triple combination of "off-the-shelf" haNK cell therapy with N-803 and avelumab, without chemotherapy in subjects that have progressed after treatment with a checkpoint inhibitor for Merkel cell carcinoma. This trial is actively recruiting patients at multiple centers across the U.S., and we anticipate reporting interim data next year. As a rare disease, Merkel cell carcinoma patients often require regional referral and additional travel to a clinical trial site. The ongoing COVID-19 pandemic has had an impact on enrollment due in part to limitations in travel and study accessibility. In response to this, we will continue to increase the number of study sites in new geographic locations and increase local community awareness of the trial as we add new sites.

QUILT 3.064 is our phase I first-in-human, dose escalation-single agent safety study in patients with locally advanced or metastatic solid cancers. This study concluded in the third quarter of 2020, having enrolled ten patients across three dose cohorts, with enrollment of additional patients into the two remaining optional dose cohorts having subsequently been deemed unnecessary. A dose level of 2×10^9 cells per injection twice per week was confirmed to be safe, with no dose limiting toxicities or serious adverse events related to the test article. Final data from this trial is being collated for a final study report.

QUILT 3.067 is a phase II, open-label, single-arm trial evaluating the same novel triple combination of "off-the-shelf" haNK cell therapy with N-803 and avelumab following a tumor conditioning regimen in subjects that have progressed on or after standard-of-care therapy for triple negative breast cancer. Patient follow-up concluded during the third quarter of 2020 for the long-term responders in the trial and final data is being collated for a final study report. We last reported an overall response rate by immune response RECIST criteria in 6 of 9 patients (67%), a complete response rate in 3 of 9 patients (33%) (one unconfirmed) and a median progression-free survival by immune response RECIST criteria of 13.7 months. Based on this data, we plan to file an IND in the fourth quarter of 2020 for an open label, randomized controlled phase II trial of PD-L1.t-haNK and N-803 in combination with standard-of-care therapy versus standard-of-care therapy alone. For the primary objective, we will compare the overall response rate between the two arms per RESIST criteria in solid tumors, Version 1.1. Secondary objectives will include assessments of safety, event-free survival, overall survival and durability of response using the same RESIST Version 1.1 criteria.

QUILT 3.055 is a phase IIb, open-label, multi-cohort study of combination immunotherapy in patients with non-small cell lung cancer, or NSCLC, who have previously received treatment with immune checkpoint inhibitors. Patients are eligible to enter into the cohort designated to receive third-line combination immunotherapy consisting of PD-L1.t-haNK cell therapy, N-803 and a checkpoint inhibitor after progressing on one of four other treatment cohorts within the study. The primary efficacy endpoint of the study is overall response rate per RECIST Version 1.1. Secondary endpoints include progression-free survival, overall survival and durability of response using RECIST Version 1.1 criteria. The IND amendment to include this third-line study cohort has been authorized by the FDA and will be commencing at several of the study's currently open U.S. sites. Observed responses in this trial will guide our plans to conduct a subsequent phase II trial in second-line NSCLC patients.

QUILT 88 is a phase II, open-label, randomized, three-cohort comparative study of PD-L1.t-haNK, N-803 and aldoxorubicin in combination with standard-of-care therapy versus standard-of-care therapy alone for front-line maintenance, second-line and third-line or greater treatment of subjects with locally advanced or metastatic pancreatic cancer. Each of the three cohorts will be conducted as standalone studies a) as front-line maintenance therapy in patients that have achieved a clinical response after first-line standard-of-care therapy, b) in second-line therapy, and c) in third-line therapy or greater. Cohorts A and B will have their own control arms while cohort C will be conducted as a single-arm, open-label study. Safety and progression-free survival for cohorts A and B will be compared within the groups using RECIST Version 1.1 criteria based on blinded independent central review. All three study cohorts of the trial are open and actively enrolling patients at multiple centers across the U.S., with 29 patients currently on study and many more actively being screened.

Additional Oncology Programs Update

We anticipate pursuing additional indications for our PD-L1.t-haNK product candidate, such as in the neoadjuvant setting in combination with N-803 and a checkpoint inhibitor for newly diagnosed patients with head and neck squamous cells cancers in collaboration with the National Cancer Institute. We also plan to initiate a phase II glioblastoma trial based on an encouraging signal observed in the clinic in our special-purpose compassionate use IND program. We will also initiate in the near term a series of phase I first-in-human trials with our IND-ready t-haNK products HER2.t-haNK, EGFR.t-haNK and the FDA authorized CD19.t-haNK. Likewise, we are nearing IND filings for three phase Ib ceNK studies in ovarian, myeloma and AML cancers.

COVID-19 Programs Update

QUILT-COVID-19-MSC is a randomized, double-blind placebo-controlled phase Ib study to assess the safety of therapeutic treatment with immunomodulatory bone marrow-derived mesenchymal stem cells, or BM-Allo-MSC, in adults with severe COVID-19 infection. This clinical trial will evaluate the safety and efficacy of BM-Allo-MSC versus best supporting care in treating patients with severe disease requiring ventilator support during COVID-19 infection. A total of 45 subjects receiving care in the critical care or ICU setting for COVID-19 will be enrolled in this study. Subjects will be randomized in a 2:1 fashion to the experimental and control arms, respectively. Primary endpoints include incidence of adverse events, mortality and number of ventilator-free days within 60 days of randomization. All subjects will also be assessed using the standard National Early Warning Score, or NEWS score (Royal College of Physicians 2012). This study is currently open and actively enrolling patients at regional centers in Southern California.

QUILT-COVID-19-hAd5 is a vaccine trial operated by our affiliate, ImmunityBio, under a Joint COVID-19 Collaboration Agreement, described below. This phase Ib, open-label study will evaluate the safety, reactogenicity and immunogeniticy of prophylactic vaccination with a second generation E1, E2b and E3 deleted human adenovirus-5 vaccine in normal healthy volunteers. The test article is an hAd5-S-Fusion+N-ETSD vaccine which encodes for an optimized spike protein (S-Fusion), to enhance stability and cell surface expression of the receptor binding domain of the SARS-CoV-2 spike protein, and a Nucleocapsid protein with an enhanced T-cell stimulation domain (N-ETSD) to enhance cell-mediated immunity. Two cohorts of ten subjects will receive either 5×10^{10} or 1×10^{11} virus particles per dose on days 1 and 22 and a third cohort of fifteen patients will receive the highest safe dose administered in the two initial cohorts. Safety and activity will be assessed for up to twelve months after the second dose. Toxicities will be graded using the Guidance for Industry - Toxicity Grading Scale for Healthy Adult and Adolescent Volunteers Enrolled in Preventive Vaccine Clinical Trials (2007). This study is currently open and rapidly enrolling patients at Hoag Hospital, in Newport Beach, California.

Joint COVID-19 Collaboration Agreement with ImmunityBio

On August 21, 2020, we entered into a definitive agreement (the "Collaboration Agreement") with ImmunityBio to pursue collaborative joint development, manufacturing and marketing of certain COVID-19 therapeutics and vaccines. The terms of the Collaboration Agreement supersede and replace the terms of the binding term sheet executed on May 22, 2020, as previously disclosed. Through their efforts, the parties agreed to jointly develop ceNK, haNK, mesenchymal stem cells (MSC), adenovirus constructs (hAd5), and N-803, a novel IL-15 cytokine superagonist, for the prevention and treatment of SARS-CoV-2 viral infections and associated conditions in humans, including without limitation, COVID-19. Pursuant to the Collaboration Agreement, we have contributed our ceNK, haNK, and MSC product candidates and certain of our manufacturing capabilities, and ImmunityBio has contributed their hAd5 and N-803 product candidates. hAd5 has been developed as a vaccine, and ceNK, haNK, MSC and N-803 have each been developed as therapeutics for treating COVID-19 at various stages of infection.

From and after the effective date of the Collaboration Agreement, the parties will share equally in all costs relating to developing and manufacturing of the product candidates globally with the exception of certain laboratory equipment purchases that will be borne solely by us. With the exception of N-803, we will be primarily responsible for the manufacture of each product. Each party will be responsible for the regulatory affairs and the commercialization relating to its contributed products. The global net profits from the collaboration products will be shared 60%/40% in favor of the party contributing the product on which the sales are based except if the parties mutually agree because of certain circumstances. All net profits from sales of combined collaboration products will be shared equally. This collaboration is supervised by a joint steering committee, which is comprised of an equal number of representatives from both parties. The term of the agreement will be five years and it is renewable for an additional five year period upon mutual agreement. Each party will also have a right to terminate in the event of material breach, bankruptcy, or insolvency.

In this Joint COVID-19 Collaboration, we contributed the following programs:

- ***MSC cells*** (as described above) as a therapeutic candidate for patients with severe symptoms of COVID-19 to modulate the immune system's excessive response to COVID-19 infection, thereby potentially reducing the debilitating and sometimes fatal effects of the disease; and
- ***ceNK and haNK cells*** (as described above) as a therapeutic candidate for moderate-risk, hospitalized adults with moderate to severe symptoms of COVID-19.

ImmunityBio contributed the following programs:

- ***N-803*** as a therapeutic candidate for patients with mild symptoms of COVID-19 prior to the onset of severe disease by potentially activating natural killer cells to mitigate viral replication; and
- ***Human adenovirus (hAd5)*** as a vaccine candidate for those individuals in an uninfected state to prevent the onset of COVID-19.

In addition to the above programs contributed by each party, we will contribute our manufacturing capabilities in the form of facilities, equipment, personnel and related know-how, including our GMP manufacturing facility in El Segundo, California, and ImmunityBio will contribute certain manufacturing equipment and related technology and know-how. To date, NantKwest and ImmunityBio have each prepared a GMP-ready manufacturing plant for COVID-19 vaccine production, which we and ImmunityBio expect will have a combined estimated capacity to produce sufficient clinical supply for our phase I and II studies by year-end 2020. We have prepared one of our GMP manufacturing facilities previously used to manufacture product for our oncology trials to manufacture and produce the vaccine candidate and we are in the process of readying a new, well-equipped location to manufacture and produce clinical products for our oncology trials, which resulted in additional facilities and related facility operating costs starting in the third quarter of 2020. We have established a clinical product inventory to continue to supply clinical product for our ongoing oncology trials while this new facility is being readied. The new facility will resume clinical product supply for our oncology trial starting in early 2021. In addition, we have repurposed some of our manufacturing facility in Culver City, California, and personnel to support our QUILT-COVID-19-MSC program and have repurposed some of our personnel overseeing quality of our oncology programs to support the Joint COVID-19 Collaboration. We also expect to hire additional staff to support the Joint COVID-19 Collaboration. We believe the Joint COVID-19 Collaboration will have no material impact on our current oncology efforts and trials and we expect that we will be able to continue to manufacture adequate product to continue our ongoing oncology trials.

Coronavirus Pandemic

In March 2020, the World Health Organization declared the novel strain of coronavirus disease (SARS-CoV-2) a pandemic. In the same month, the President of the United States declared a State of National Emergency due to the pandemic. Many jurisdictions, particularly in North America, Europe and Asia, as well as U.S. states in which we operate, including California, have adopted or continue to consider laws, rules, regulations or decrees intended to address the pandemic, including travel restrictions, closing or, more recently, re-opening of non-essential businesses or restricting daily activities. However, due to the pandemic new restrictions might be imposed by various governmental authorities. For example, many communities have limited, and may continue to limit, social mobility and gatherings in response to the continued rise in coronavirus cases and fatalities in the U.S. Such restrictions and other impacts from the pandemic may have an impact on our business.

Given the unprecedented and evolving nature of the pandemic, the future impact of these changes and potential changes on our company are unknown at this time. To date, we have seen no material adverse impact to our business from the pandemic. We anticipate, however, that enrollment of patients in our studies will likely take longer than forecasted in prior SEC filings and that our clinical trials may require additional time to complete which would in turn impact the timeline in which we were previously forecasting BLA submissions of our product candidates and subsequent revenue generation. These factors have been accounted for in the anticipated upcoming milestones table, above. During any such delays in our clinical trials, we will continue to incur fixed costs such as selling, general and administrative expenses and operating expenses related to our laboratory, GMP manufacturing, and office facilities.

Our office-based employees have been working from home since mid-March 2020, while ensuring essential staffing levels for our research and development operations remain in place, including maintaining key personnel in our laboratory and GMP manufacturing facilities. While we have not previously experienced or been notified of any anticipated impact amongst our third party vendors, it is likely that the pandemic and resulting mitigation efforts could have an impact in the future on our third-party suppliers who manufacture laboratory supplies required for our in-house manufacturing process, which in turn could have an impact on having sufficient clinical product supply available for our clinical trials. We have addressed this in part by ensuring that we have sufficient supplies on hand to weather interruptions in our supply chain.

There is significant uncertainly about the progression and ultimate impact of the pandemic on our business and operations. While the pandemic did not materially impact our results during the nine months ended September 30, 2020 outside of the Joint COVID-19 Collaboration Agreement as described above, we anticipate that it could impact our business in the short-term due to factors such as fewer patients accessing treatment for cancer.

Operating Results

To date, we have generated minimal revenue related to the non-clinical use of our cell lines and intellectual property. We have not generated any revenue from product sales. We have incurred net losses in each year since our inception and, as of September 30, 2020, we had an accumulated deficit of $722.4 million. Our net losses were $60.3 million and $50.1 million for the nine months ended September 30, 2020 and 2019, respectively, and $65.8 million and $96.2 million for the years ended December 31, 2019 and 2018, respectively. Substantially all of our net losses resulted principally from costs incurred in connection with our ongoing clinical trials and operations, our research and development programs, and from selling, general and administrative costs associated with our operations including stock-based compensation expense.

As of September 30, 2020 we had 160 employees. Personnel of related companies who provide corporate, general and administrative, manufacturing strategy, research and development, regulatory and clinical trial strategy and other support services under our shared services agreement with NantWorks are not included in this number. For additional information, see Note 9 – *Related Party Agreements* of the "Notes to Unaudited Condensed Consolidated Financial Statements" included in Part I, Item I of this Quarterly Report. We expect to continue to incur significant expenses and increasing operating losses for the foreseeable future, which may fluctuate significantly from quarter-to-quarter and year-to-year. We anticipate that our expenses will increase substantially as we:

- continue research and development, including preclinical and clinical development of our existing product candidates;
- potentially seek regulatory approval for our product candidates;
- seek to discover and develop additional product candidates;
- establish a commercialization infrastructure and scale up our manufacturing and distribution capabilities to commercialize any of our product candidates for which we may obtain regulatory approval;
- seek to comply with regulatory standards and laws;

- maintain, leverage and expand our intellectual property portfolio;
- hire clinical, manufacturing, scientific and other personnel to support our product candidates' development and future commercialization efforts;
- add operational, financial and management information systems and personnel; and
- incur additional legal, accounting and other expenses in operating as a public company.

We do not expect to generate any revenue from product sales unless and until we successfully complete development and obtain marketing approval for one or more of our product candidates, which we do not expect to happen for at least the next several years, if ever. Until such time that we can generate substantial revenue from product sales, if ever, we expect to finance our operating activities through a combination of equity offerings, debt financings, government or other third-party funding, marketing and distribution arrangements and other collaborations, strategic alliances and licensing arrangements. However, we may be unable to raise additional funds or enter into such other arrangements when needed on favorable terms or at all, which would have a negative impact on our financial condition and could force us to delay, limit, reduce or terminate our research and development programs or commercialization efforts. Failure to receive additional funding could cause us to cease operations, in part or in full.

Viracta Investment

In March 2017, we participated in a Series B convertible preferred stock financing and invested $8.5 million in Viracta Therapeutics, Inc., or Viracta, a clinical stage drug development company. In May 2017, we executed an exclusive worldwide license with Viracta to develop and commercialize Viracta's proprietary histone deacetylase inhibitor drug candidate for use in combination with NK cell therapy and possibly additional therapies. At September 30, 2020, our investment in Viracta totaled $9.3 million.

See Note 4 – *Viracta Investment*, of the "Notes to Unaudited Condensed Consolidated Financial Statements" included in Part I, Item 1 of this Quarterly Report for a more detailed discussion regarding our investment in Viracta.

Collaboration Agreements

We anticipate that strategic collaborations will become an integral part of our operations, providing opportunities to leverage our partners' expertise and capabilities to further expand the potential of our technologies and product candidates. We believe we are well positioned to become a leader in cell-based immunotherapy due to our broad and vertically integrated platform and through complementary strategic partnerships. We did not enter into any significant new collaboration agreements during the three months ended September 30, 2020, other than those discussed in this Quarterly Report.

In addition to the collaboration and license agreements discussed in this Quarterly Report, we may enter into a commercial agreement relating to an IL-15 superagonist product developed by an affiliate, and we may also pursue supply arrangements for various investigational agents controlled by affiliates and third parties to be used in our clinical trials. These collaboration and supply agreements do not typically specify how sales will be apportioned between the parties upon successful commercialization of the product. As a result, we cannot guarantee that we will receive a percentage of the revenue that is at least proportional to the costs that we will incur in commercializing the product candidate. Furthermore, if Dr. Soon-Shiong was to cease his affiliation with us, ImmunityBio, or with NantWorks, these entities may be unwilling to continue these relationships with us on commercially reasonable terms, or at all, and as a result may impede our ability to control the supply chain for our combination therapies.

See Note 7 – *Collaboration and License Agreements*, of the "Notes to Unaudited Condensed Consolidated Financial Statements" included in Part I, Item I of this Quarterly Report for a more detailed discussion regarding our collaboration and license agreements.

Agreements with Related Parties

Our Chairman, Dr. Patrick Soon-Shiong, founded and has a controlling interest in NantWorks, which is a collection of multiple companies in the healthcare and technology space. We have entered into arrangements with NantWorks, and certain affiliates of NantWorks that, taken together, we expect will facilitate the development of new genetically modified NK cells for our product pipeline. Affiliates of NantWorks are also affiliates of the company due to the common control by and/or common ownership interest of our Chairman.

See Note 9 – *Related Party Agreements*, of the "Notes to Unaudited Condensed Consolidated Financial Statements" included in Part I, Item 1 of this Quarterly Report for a more detailed discussion regarding our related party agreements.

Components of our Results of Operations

Revenue

To date, we have derived substantially all of our revenue from non-exclusive license agreements with numerous pharmaceutical and biotechnology companies granting them the right to use our cell lines and intellectual property for non-clinical use. These agreements generally include upfront fees and annual research license fees for such use, as well as commercial license fees for sales of our licensee's products developed or manufactured using our intellectual property and cell lines. Our license agreements may also include milestone payments, although to date, we have not generated any revenue from milestone payments. To date, we have generated minimal revenue related to the non-clinical use of our cell lines and intellectual property. We have no products approved for commercial sale and have not generated any revenue from product sales. If we fail to complete the development of our product candidates in a timely manner or fail to obtain regulatory approval for them, we may never be able to generate substantial future revenue.

Operating Expenses

We classify our operating expenses into research and development and selling, general and administrative expenses. Personnel costs, including salaries, benefits, bonuses, and stock-based compensation expense comprise a significant component of our research and development and selling, general and administrative expense categories. We allocate expenses associated with our facilities and information technology costs between these two categories based on the nature of each cost.

Research and Development

Research and development expense consists of expenses incurred while performing research and development activities to discover and develop our product candidates, including collaborative arrangements. This includes conducting preclinical studies and clinical trials, manufacturing development efforts and activities related to regulatory filings for product candidates. We recognize research and development expenses as they are incurred. Our research and development expense primarily consists of:

- clinical trial and regulatory-related costs;
- expenses incurred under agreements with investigative sites and consultants that conduct our clinical trials;
- expenses incurred under collaborative agreements;
- manufacturing and testing costs and related supplies and materials;
- employee-related expenses, including salaries, benefits, travel and stock-based compensation; and
- facility expenses dedicated to research and development.

We typically use our employee, consultant and infrastructure resources across our development programs. We track outsourced development costs by product candidate or development program, but we do not allocate personnel costs, other internal costs or external consultant costs to specific product candidates or development programs.

Substantially all of our research and development expenses to date have been incurred in connection with our product candidates. We expect our research and development expenses to increase significantly for the foreseeable future as we advance our product candidates through clinical development, including the conduct of our ongoing and any future clinical trials. The process of conducting clinical trials necessary to obtain regulatory approval is costly and time consuming. The successful development of product candidates is highly uncertain. At this time, we cannot reasonably estimate the nature, timing or costs required to complete the remaining development of any product candidates. This is due to the numerous risks and uncertainties associated with the development of product candidates as discussed in greater detail in Part II, Item 1A, "*Risk Factors*" of this Quarterly Report.

The costs of clinical trials may vary significantly over the life of a project owing to, but not limited to, the following:

- per patient trial costs;
- the number of sites included in the clinical trials;
- the countries in which the clinical trials are conducted;
- the length of time required to enroll eligible patients;
- the number of patients that participate in the clinical trials;
- the number of doses that patients receive;

- the cost of comparative agents used in clinical trials;
- the drop-out or discontinuation rates of patients;
- potential additional safety monitoring or other studies requested by regulatory agencies;
- the duration of patient follow-up; and
- the efficacy and safety profile of the product candidate.

We do not expect any of our product candidates to be commercially available for at least the next several years, if ever.

In addition, we expect our research and development expenses to increase significantly for the foreseeable future as we advance our product candidates through clinical development and conduct our ongoing and planned clinical trials.

Selling, General and Administrative

Selling, general and administrative expense consists primarily of salaries and personnel-related costs, including employee benefits and any stock-based compensation, for employees performing functions other than research and development. This includes personnel in executive, finance, human resources, information technology and administrative support functions. Other selling, general and administrative expenses include facility-related costs not otherwise allocated to research and development expense, professional fees for auditing, tax and legal services, advertising costs, expenses associated with obtaining and maintaining patents, consulting costs, royalties and licensing costs, and costs of our information systems.

We expect that our selling, general and administrative expenses during the year ended December 31, 2020 will increase as compared to the year ended December 31, 2019. We have incurred and expect that we will continue to incur in the future, additional costs associated with operating as a public company, including costs to comply with stock exchange listing and SEC requirements, future funding efforts, corporate governance, internal controls, investor relations, disclosure and similar requirements applicable to public companies. Additionally, if and when we believe that a regulatory approval of a product candidate appears likely, we expect to incur significant increases in our selling, general and administrative expenses relating to the sales and marketing of the approved product candidate.

Other Income (Expense)

Other income (expense) consists primarily of income from our investments in marketable debt securities, sublease rental income and foreign currency income (expense).

Income Tax

Income tax expense consists of U.S. federal and state income taxes. To date, we have not been required to pay U.S. federal income taxes because of our current and accumulated net operating losses. Our income tax expense to date primarily relates to minimum income taxes in the State of California. Our income tax benefit to date relates primarily to the amortization of deferred tax liabilities at our Korean subsidiary.

Results of Operations

Comparison of the three months ended September 30, 2020 and 2019

	Three Months Ended September 30,			
	2020	2019	$ Change	% Change
	(Unaudited, $ in thousands)			
Revenue	$ 68	$ 12	$ 56	467%
Operating expenses:				
Research and development (including amounts with related parties)	17,284	12,052	5,232	43%
Selling, general and administrative (including amounts with related parties)	4,711	4,025	686	17%
Total operating expenses	21,995	16,077	5,918	37%
Loss from operations	(21,927)	(16,065)	(5,862)	36%
Other income (expense):				
Investment income, net	66	433	(367)	(85%)
Interest expense	(9)	(5)	(4)	80%
Other income, net (including amounts with related parties)	96	56	40	71%
Total other income	153	484	(331)	(68%)
Loss before income taxes	(21,774)	(15,581)	(6,193)	40%
Income tax expense	(2)	—	(2)	n/a
Net loss	$ (21,776)	$ (15,581)	$ (6,195)	40%

Research and Development

Research and development expense increased $5.2 million during the three months ended September 30, 2020, as compared to the three months ended September 30, 2019. The increase in research and development expense was primarily attributable to expenses of $3.5 million related to our Joint COVID-19 Collaboration Agreement with ImmunityBio, including the acquisition of $3.2 million of equipment to be utilized in the manufacture of the human adenovirus, or hAd5, vaccine candidate, and other net program related costs of $0.3 million. These equipment purchases do not have an alternative use and were therefore expensed as incurred within research and development expenses. We also experienced increases in research and development expense of $0.8 million due to higher laboratory and supplies expenses mainly driven by our COVID-19 programs, higher facilities expenses of $0.4 million related to our new El Segundo facility leased during the third quarter of 2020, which will be used to manufacture and produce clinical products for our oncology product candidate trials, and higher compensation and related expenses of $0.4 million including fees for shared services rendered under our shared service agreement with NantWorks. In addition, research and development expense increased by $0.4 million for other manufacturing and facility related expenses, including higher depreciation expense, property taxes, and other facility support costs. These increases in research and development expense were partially offset by lower cell banking costs of $0.2 million and a decrease of $0.1 million in clinical trial costs.

Selling, General and Administrative

Selling, general and administrative expense increased $0.7 million during the three months ended September 30, 2020, as compared to the three months ended September 30, 2019. The increase in selling, general and administrative expense was mainly attributable to increases in personnel costs of $0.5 million due primarily to higher compensation and related expenses, higher stock-based compensation expense of $0.5 million driven mainly by new awards granted during the current year which have a higher average grant date fair value, higher insurance costs of $0.3 million which was driven by increases in directors' and officers' insurance rates, higher software license fees of $0.3 million, and higher consulting costs of $0.1 million driven mainly by services related to finalizing our Joint COVID-19 Collaboration Agreement with ImmunityBio. These increases in selling, general and administrative expense were partially offset by a decrease in legal expenses of $0.8 million due primarily to a settlement of a contract dispute during the third quarter of 2020, and lower travel related expenses of $0.2 million due mainly to a decline in activity as a result of the ongoing COVID-19 pandemic.

Other Income

Other income decreased by $0.3 million during the three months ended September 30, 2020, as compared to the three months ended September 30, 2019. The decrease in other income was due primarily to lower investment income, as we had higher net investment amortization expense of $0.4 million during the three months ended September 30, 2020, as compared to the year ago period. The increase in net investment amortization expense was offset in part by increases related to foreign exchange gains and investment interest income.

Comparison of the nine months ended September 30, 2020 and 2019

	Nine Months Ended September 30,			
	2020	2019	$ Change	% Change
	(Unaudited, $ in thousands)			
Revenue	$ 90	$ 34	$ 56	165%
Operating expenses:				
Research and development (including amounts with related parties)	44,227	37,781	6,446	17%
Selling, general and administrative (including amounts with related parties)	16,603	13,949	2,654	19%
Total operating expenses	60,830	51,730	9,100	18%
Loss from operations	(60,740)	(51,696)	(9,044)	17%
Other income (expense):				
Investment income, net	319	1,336	(1,017)	(76%)
Interest expense	(19)	(8)	(11)	138%
Other income, net (including amounts with related parties)	195	186	9	5%
Total other income	495	1,514	(1,019)	(67%)
Loss before income taxes	(60,245)	(50,182)	(10,063)	20%
Income tax (expense) benefit	(6)	34	(40)	(118%)
Net loss	$ (60,251)	$ (50,148)	$ (10,103)	20%

Research and Development

Research and development expense increased $6.4 million during the nine months ended September 30, 2020, as compared to the nine months ended September 30, 2019. The increase in research and development expense was primarily attributable to $3.5 million of expenses related to our Joint COVID-19 Collaboration Agreement with ImmunityBio, including the acquisition of $3.2 million of equipment to be utilized in the manufacture of the human adenovirus, or hAd5, vaccine candidate, and other net program related costs of $0.3 million. These equipment purchases do not have an alternative use and were therefore expensed as incurred within research and development expenses. We also experienced increases in research and development expense of $2.5 million related to higher laboratory and supplies expense mainly driven by our COVID-19 programs coupled with additional expenses related to readying our new El Segundo manufacturing facility leased during the third quarter of 2020, an increase of $1.4 million for other manufacturing and facility related expenses including higher depreciation expense and higher facilities and equipment maintenance costs, an increase in compensation and related expenses of $0.5 million including fees for shared services rendered under our shared service agreement with NantWorks, and increased lease expenses of $0.5 million mainly related to our new El Segundo facility leased during the third quarter of 2020 which will be used to manufacture and produce clinical products for our oncology product candidate trials. In addition, research and development expense increased by $0.4 million due to higher cell banking costs, software license fees and other expenses. These increases in research and development expense were offset in part by a decrease of $0.9 million related to impairment of laboratory equipment during the second quarter of 2019, a decrease of $0.9 million in clinical trial costs driven by decreased activity, and a decrease of $0.6 million in amortization expense due to the underlying asset being fully amortized as of March 2019.

Selling, General and Administrative

Selling, general and administrative expense increased $2.7 million during the nine months ended September 30, 2020, as compared to the nine months ended September 30, 2019. The increase in selling, general and administrative expense was primarily attributable to increases of $1.6 million due to higher corporate advisory services costs, $1.1 million due to higher compensation and related expenses, and higher insurance expense of $0.7 million which was driven by increases in directors' and officers' insurance rates. In addition, selling, general and administrative expense increased by $0.3 million as a result of higher legal expenses primarily due to contracting, trademark, and patent related legal fees and other corporate matters, and an increase of $0.3 million due to higher software license fees. These increases in selling, general and administrative expense were offset in part by a decrease of $0.5 million in stock-based compensation expense, driven primarily by the completion of executive stock-based compensation vesting in March 2019, and decreases in travel and tradeshow related expenses of $0.5 million and $0.4 million, respectively, due mainly to a decline in activity as a result of the ongoing COVID-19 pandemic.

Other Income

Other income decreased by $1.0 million during the nine months ended September 30, 2020, as compared to the nine months ended September 30, 2019. The decrease in other income was due primarily to lower investment income, including a decrease in interest income, and an increase in net investment amortization expense during the nine months ended September 30, 2020, as compared to the year ago period. Investment income decreased due mainly to a decline in the average yield on our marketable debt securities. The decline in yield was driven in part by shorter contractual securities lives and broader economic and market conditions.

Liquidity and Capital Resources

Sources of Liquidity

Our principal sources of liquidity are our existing cash, cash equivalents, and marketable debt securities. We have historically invested our cash primarily in investment grade short- to intermediate-term corporate debt securities, commercial paper, government sponsored securities, U.S. treasury securities, and foreign government bonds and classify these investments as available-for-sale. Certain of these investments are subject to general credit, liquidity and other market risks. The general condition of the financial markets and the economy may increase those risks and may affect the value and liquidity of investments and restrict our ability to access the capital markets.

As of September 30, 2020, we had cash and cash equivalents, and restricted cash of $27.9 million as compared to $15.7 million as of December 31, 2019. The increase was attributable to cash flows provided by financing activities of $86.7 million, offset in part by cash used in operating and investing activities of $47.4 million and $27.2 million, respectively.

Investments in marketable debt securities were $62.1 million as of September 30, 2020, of which $61.4 million were short-term investments, as compared to $49.3 million as of September 30, 2019, of which $47.8 million were short-term investments.

Cash Flows

The following table sets forth our primary sources and uses of cash for periods indicated:

	Nine Months Ended September 30,	
	2020	2019
	(Unaudited, in thousands)	
Cash provided by (used in):		
Operating activities	$ (47,397)	$ (46,477)
Investing activities	(27,157)	9,293
Financing activities	86,734	38,654
Net increase in cash, cash equivalents, and restricted cash	$ 12,180	$ 1,470

Operating Activities

For the nine months ended September 30, 2020, our net cash used in operating activities of $47.4 million consisted of a net loss of $60.3 million, partially offset by $10.8 million in adjustments for non-cash items, and $2.1 million of cash provided by net working capital changes. Adjustments for non-cash items primarily consisted of $6.9 million in depreciation and amortization, amortization of $2.3 million for operating lease right-of-use assets, $1.5 million in stock compensation expense, and $0.4 million related to amortization of net premiums on marketable debt securities, offset in part by a decrease of $0.3 million related to non-cash interest. Changes in net working capital consisted primarily of increases from accounts payable of $4.3 million, accrued expenses and other liabilities of $1.6 million, due to related party of $1.1 million, and other assets of $0.1 million, partially offset by decreases in operating lease liabilities of $2.6 million, and prepaid expenses and other current assets of $2.3 million.

For the nine months ended September 30, 2019, our net cash used in operating activities of $46.5 million consisted of a net loss of $50.1 million, and $8.2 million of cash used by net working capital changes, partially offset by $11.9 million in adjustments for non-cash items. Adjustments for non-cash items primarily consisted of $6.8 million in depreciation and amortization, $2.2 million in stock compensation expense, $1.9 million of non-cash lease expense related to operating lease right-of-use assets, $0.9 million of impairment related to laboratory equipment, and $0.2 million in non-cash interest. Changes in net working capital consisted primarily of decreases in accrued expenses of $11.6 million, operating lease liabilities of $2.3 million, and due to related party of $0.8 million, partially offset by increases in prepaid, other current assets, and other assets of $6.2 million, and accounts payable of $0.3 million.

Investing Activities

For the nine months ended September 30, 2020, net cash used in investing activities was $27.2 million, which included cash outflows of $85.6 million for purchases of marketable debt securities, and $2.2 million for purchases of property, plant and equipment, partially offset by cash inflows of $54.1 million from maturities of marketable debt securities, and $6.6 million from sales of marketable debt securities. Our investments in property, plant and equipment during the nine months ended September 30, 2020, mainly related to the acquisition of GMP-in-a-Box equipment which will be used to manufacture our ceNK and MSC product candidates.

For the nine months ended September 30, 2019, net cash provided by investing activities was $9.3 million, which was primarily attributable to cash inflows of $87.1 million from maturities of marketable debt securities, and $2.5 million from sales of marketable debt securities, partially offset by cash outflows of $76.8 million for purchases of marketable debt securities, and $3.5 million for purchases of property, plant and equipment. During the nine months ended September 30, 2019 our purchases of marketable debt securities included our investment of $39.2 million of cash proceeds received during March 2019 from the exercise of stock options and warrants, together with reinvestment of excess cash related to maturing securities. Our investments in property, plant and equipment during the nine months ended September 30, 2019 mainly related to our El Segundo, California, facilities.

Financing Activities

For the nine months ended September 30, 2020, net cash provided by financing activities was $86.7 million, which consisted of proceeds from the issuance of 8,521,500 shares of common stock, net of issuance cost paid, of $86.3 million, and proceeds of $0.9 million resulting from the exercise of stock options. Net cash used in financing activities during the nine months ended September 30, 2020, consisted of $0.5 million related to net share settlement of vested RSUs for payment of employee payroll taxes.

For the nine months ended September 30, 2019, net cash provided by financing activities was $38.7 million, which primarily consisted of cash proceeds of $35.2 million and $4.1 million resulting from the exercise of warrants and stock options, respectively, by our Chairman during March 2019, partially offset by $0.5 million used for stock repurchases, including commissions, and $0.1 million related to net share settlement of vested RSUs for payment of employee payroll taxes.

Future Funding Requirements

To date, we have generated minimal revenue related to the non-clinical use of our cell lines and intellectual property, and we have no products approved for commercial sale and have not generated any revenue from product sales. We do not expect to generate significant revenue unless and until we obtain regulatory approval of and commercialize any of our product candidates and we do not know when, or if, this will occur. In addition, we expect our expenses to significantly increase in connection with our ongoing development activities, particularly as we continue the research, development and clinical trials of, and seek regulatory approval for, our product candidates. We have also incurred and expect that we will continue to incur in the future additional costs associated with operating as a public company as well as costs related to future fundraising efforts. In addition, subject to obtaining regulatory approval of our product candidates, we expect to incur significant commercialization expenses for product sales, marketing, manufacturing and distribution. We anticipate that we will need substantial additional funding in connection with our continuing operations. We expect that our expenses will increase substantially if and as we:

- continue research and development, including preclinical and clinical development of our existing product candidates including those related to our Joint CVOID-19 Collaboration agreement with a related party;
- potentially seek regulatory approval for our product candidates;
- seek to discover and develop additional product candidates;
- establish a commercialization infrastructure and scale up our manufacturing and distribution capabilities to commercialize any of our product candidates for which we may obtain regulatory approval;
- seek to comply with regulatory standards and laws;
- maintain, leverage and expand our intellectual property portfolio;
- hire clinical, manufacturing, scientific and other personnel to support our product candidates' development and future commercialization efforts;
- add operational, financial and management information systems and personnel; and
- incur additional legal, accounting and other expenses in operating as a public company.

Based upon our current operating plan, we expect that our existing cash, cash equivalents, and marketable debt securities will enable us to fund our operating expenses and capital expenditure requirements for at least the next 12 months following the issuance date of the financial statements. We have based this estimate on assumptions that may prove to be incorrect, and we may use our available capital resources sooner than we currently expect. The successful development of any product candidate is highly uncertain. Due to the numerous risks and uncertainties associated with the development and commercialization of our product candidates, if approved, we are unable to estimate the amounts of increased capital outlays and operating expenses associated with completing the development of our product candidates.

Our future capital requirements will depend on many factors, including:

- the timing of, and the costs involved in, preclinical and clinical development and obtaining any regulatory approvals for our product candidates;
- the impacts of COVID-19 on our operations;
- the costs of manufacturing, distributing and processing our product candidates;
- the number and characteristics of any other product candidates we develop or acquire;
- our ability to establish and maintain strategic collaborations, licensing or other commercialization arrangements and the terms and timing of such arrangements including our arrangements with ImmunityBio and its subsidiaries and Viracta;
- the degree and rate of market acceptance of any approved products;
- the emergence, approval, availability, perceived advantages, relative cost, relative safety and relative efficacy of other products or treatments;
- the expenses needed to attract and retain skilled personnel;
- the costs associated with being a public company;
- the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing intellectual property claims, including litigation costs and the outcome of such litigation;
- the timing, receipt and amount of sales of, or royalties on, any approved products; and
- any product liability or other lawsuits related to our product candidates or the company.

Because all of our product candidates are in various stages of preclinical and clinical development and the outcome of these efforts is uncertain, we cannot estimate the actual amounts necessary to successfully complete the development and commercialization of any of our product candidates or whether, or when, we may achieve profitability. Until such time, if ever, as we can generate substantial product revenues, we expect to finance our cash needs through a combination of equity offerings, debt financings, collaborations, strategic alliances and/or licensing arrangements. We do not have any committed external source of funds. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the ownership interest of our stockholders will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect your rights as a common stockholder. Debt financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends. If we raise additional funds through collaborations, strategic alliances or licensing arrangements with pharmaceutical partners, we may have to relinquish valuable rights to our technologies, future revenue streams, research programs or product candidates, or grant licenses on terms that may not be favorable to us. If we are unable to raise additional funds through equity or debt financings when needed, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts or grant rights to develop and market our product candidates that we would otherwise prefer to develop and market ourselves.

Contractual Obligations and Commitments

During the nine months ended September 30, 2020, there have been no material changes outside the ordinary course of business in our contractual obligations from those disclosed in the section entitled "*Management's Discussion and Analysis of Financial Condition and Results of Operations*" in Item 7 of our Annual Report on Form 10-K for the year ended December 31, 2019.

Off-Balance Sheet Arrangements

During the periods presented, we did not have, nor do we currently have, any off-balance sheet arrangements as defined under Security and Exchange Commission rules.

Critical Accounting Policies and Significant Judgments and Estimates

In the notes to our audited consolidated financial statements and in "*Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations*" included in our 2019 Annual Report on Form 10-K, we have disclosed those accounting policies that we consider to be significant in determining our results of operations and financial condition. Except as noted below, there have been no other material changes to those policies that we consider to be significant since the filing of our 2019 Annual Report on Form 10-K. The accounting principles used in preparing our unaudited condensed consolidated financial statements conform in all material respects to U.S. GAAP.

Use of Estimates

The preparation of condensed consolidated financial statements in conformity with U.S. GAAP requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. On an ongoing basis, we evaluate our estimates, including those related to valuation of equity-based awards, deferred income taxes and related valuation allowances, preclinical and clinical trial accruals, impairment assessments, the measurement of right-of-use assets and lease liabilities, useful lives of long-lived assets, loss contingencies, and fair value measurements. We base our estimates on historical experience and on various other market-specific and relevant assumptions that we believe to be reasonable under the circumstances. Estimates are assessed each period and updated to reflect current information, such as the economic considerations related to the impact that the ongoing coronavirus pandemic could have on our significant accounting estimates. Actual results could differ from those estimates.

Collaboration Arrangements

We analyze our collaboration arrangements to assess whether they are within the scope of ASC Topic 808, *Collaborative Arrangements*, or ASC 808. A collaborative arrangement is a contractual arrangement that involves a joint operating activity. These arrangements involve two or more parties who are active participants in the activity, and exposed to significant risks and rewards dependent on the commercial success of the activity. This assessment is performed throughout the life of the arrangement based on changes in the responsibilities of all parties in the arrangement. To the extent the collaboration agreement is within the scope of ASC 808, we also assess whether the arrangement contains multiple elements that are within the scope of other accounting literature. If we conclude that some or all aspects of the agreement are distinct and represent a transaction with a customer, we account for those aspects of the arrangement within the scope of ASC Topic 606, *Revenue from Contracts with Customers*, or ASC 606. Amounts that are owed to collaboration partners that are within the scope of ASC 808 are recognized as an offset to research and development expenses as such amounts are incurred by the collaboration partner. Where amounts owed to a collaboration partner exceed our collaboration expenses in each quarterly period, such amounts are classified as research and development expense.

Our collaboration arrangements require us to acquire certain equipment for exclusive use in the joint operating activities. These equipment purchases do not have an alternative use and are therefore expensed as incurred within research and development expenses.

Our collaboration arrangements are further discussed within Note 7, *Collaboration and License Agreements*, of the "Notes to Unaudited Condensed Consolidated Financial Statements" included in Part I, Item 1 of this Quarterly Report.

Recently Adopted Accounting Policies

Refer to Note 2 – *Summary of Significant Accounting Policies*, of the "Notes to Unaudited Condensed Consolidated Financial Statements" included in Part I, Item 1 of this Quarterly Report for a discussion of recent accounting pronouncements or changes in accounting pronouncements that are of significance, or potential significance, to us.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.

Financial market risks related to interest rates, foreign currency exchange rates and inflation are described in our 2019 Annual Report on Form 10-K. At September 30, 2020, there have been no material changes to the financial market risks described at December 31, 2019. We do not currently anticipate any other near-term changes in the nature of our financial market risk exposures or in management's objectives and strategies with respect to managing such exposures.

ITEM 4. CONTROLS AND PROCEDURES.

Evaluation of Disclosure Controls and Procedures

Our disclosure controls and procedures are designed to provide reasonable assurance of achieving their objectives of ensuring that information we are required to disclose in the reports we file or submit under the Exchange Act is accumulated and communicated to our management, including our CEO and CFO, as appropriate, to allow timely decisions regarding required disclosures, and is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. There is no assurance that our disclosure controls and procedures will operate effectively under all circumstances.

Management, with the participation of our CEO and CFO, evaluated the effectiveness of our disclosure controls and procedures as of September 30, 2020. The term "disclosure controls and procedures," as defined in Rule 13a-15(e) of the Securities Exchange Act of 1934, or the Exchange Act, means controls and other procedures of a company that are designed to provide reasonable assurance that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to provide reasonable assurance that information required to be disclosed is accumulated and communicated to our management, including our CEO and CFO, as appropriate, to allow timely decisions regarding required disclosure. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their desired control objectives, and management necessarily is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on the evaluation of our disclosure controls and procedures as of September 30, 2020, our CEO and CFO have concluded that, as of September 30, 2020, our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Control over Financial Reporting

There have been no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the three months ended September 30, 2020 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Inherent Limitations on Effectiveness of Controls

Management recognizes that 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. Further, the design of a control system must reflect the fact that there are resource constraints and the benefits of controls must be considered relative to their costs. 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 or error, if any, have been detected. These inherent limitations include the realities that judgments in decision making can be faulty and that breakdowns can occur because of a simple error or mistake. 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 controls. 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 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.

From time to time, we may be involved in various claims and legal proceedings relating to claims arising out of our operations. We are not currently a party to any legal proceedings that, in the opinion of our management, are likely to have a material adverse effect on our business. Regardless of outcome, litigation can have an adverse impact on us because of defense and settlement costs, diversion of management resources and other factors.

Fox Chase Litigation

On July 21, 2020, we filed a declaratory judgment lawsuit in the Superior Court for San Diego County, California, naming Fox Chase Cancer Center Foundation and Institute for Cancer Research as the defendants ("Fox Chase"). This litigation relates to an exclusive license agreement by which Fox Chase granted us various intellectual property rights (including patent rights) for certain modified NK-92 cell technologies dating back to 2004 ("2004 License"). We requested the Court to grant declarations that we have not breached any material obligation under the 2004 License and that Fox Chase has not and cannot terminate the 2004 License. Fox Chase has answered the Complaint, lodged a Cross-Complaint raising a patent inventorship challenge, and moved the case to federal court (See Part II, Item 1A, "*Risk Factors*" of this Quarterly Report for a more detailed discussion). While the litigation is in the early stage, its outcome cannot be predicted. We do not consider the Fox Chase license agreement to be material to our business.

ITEM 1A. RISK FACTORS.

Investing in our common stock involves a high degree of risk. You should carefully consider the risks described below, as well as other information included in our 2019 Annual Report on Form 10-K, including our financial statements and the related notes, and the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations," any of which may be relevant to decisions regarding an investment in or ownership of our stock. The occurrence of any of these risks could have a significant adverse effect on our reputation, business, financial condition, results of operations, growth and ability to accomplish our strategic objectives. We have organized the description of these risks into groupings in an effort to enhance readability, but many of the risks interrelate or could be grouped or ordered in other ways, so no special significance should be attributed to the groupings or order below.

Any risk factors that have changed since our Annual Report on Form 10-K will be noted with an asterisk (*).

Risks Related to Our Financial Condition and Capital Requirements

****We are a clinical-stage biopharmaceutical company with a limited operating history and have incurred significant losses since our inception, and we anticipate that we will continue to incur losses for the foreseeable future, which makes it difficult to assess our future viability.***

We are a clinical-stage biopharmaceutical company with a limited operating history upon which our business can be evaluated. To date, we have generated minimal revenue related to the non-clinical use of our cell lines and intellectual property, and we have no products approved for commercial sale and have not generated any revenue from product sales. We have incurred operating losses on an annual basis since our formation and we may never become profitable. As of September 30, 2020, we had an accumulated deficit of $722.4 million. We incurred net losses of $60.3 million and $50.1 million for the nine months ended September 30, 2020 and 2019, respectively. Our losses have resulted principally from costs incurred in ongoing preclinical studies, clinical trials and operations, as well as research and development expenses, and general and administrative expenses.

A critical aspect of our strategy is to invest significantly in expanding our haNK, taNK, t-haNK, MSC and ceNK platforms and the development of our product candidates. We expect to incur significant expenses as we continue to expand our business, including in connection with conducting research and development across multiple therapeutic areas, participating in clinical trial activities, continuing to acquire or in-license technologies, maintaining, protecting and expanding our intellectual property, seeking regulatory approvals and, upon successful receipt of U.S. Food and Drug Administration, or FDA, approval, commercializing our products. We will also incur costs as we hire additional personnel and increase our manufacturing capabilities, including the lease or purchase of a facility for the manufacturing of our product candidates for our ongoing and any future clinical trials and, upon receipt of any FDA approval, for our initial commercialization activities. Moreover, we do not expect to have any significant product sales or revenue for at least the next several years. These losses have had and, as our operating losses continue to increase significantly in the future due to these expenditures, will continue to have an adverse effect on our stockholders' equity and working capital. Because of the numerous risks and uncertainties associated with our product development efforts, we are unable to predict when we may become profitable, if at all. Additionally, our net losses may fluctuate significantly from quarter to quarter, and as a result, a period-to-period comparison of our results of operations may not be meaningful. For example, we expect our operating expenses to continue to increase in the fourth quarter of 2020 due to increased research and development expenses including personnel related costs and capital and facility operating expenditures in continued efforts for our Joint COVID-19 Collaboration with ImmunityBio. Even if we do become profitable, we may not be able to sustain or increase our profitability on a quarterly or annual basis. In addition, we expect increased expenses in future quarters as a result of the Joint COVID-19 Collaboration.

We do not have any therapeutic products that are approved for commercial sale. Our ability to generate revenue from product sales and achieve and maintain profitability depends significantly on our success in a number of factors.

We currently do not have any therapeutic products that are approved for commercial sale. We have not received, and do not expect to receive for at least the next several years, if at all, any revenues from the commercialization of our product candidates if approved. To obtain revenue from sales of our product candidates that are significant or large enough to achieve profitability, we must succeed, either alone or with third or related parties, in developing, obtaining regulatory approval for, manufacturing and marketing therapies with commercial potential. Our ability to generate revenue and achieve and maintain profitability depends significantly on our success in many areas, including:

- our research and development efforts, including preclinical studies and clinical trials of our haNK, taNK, t-haNK, ceNK and MSC platforms and our product candidates;
- continuing to develop sustainable, scalable, reliable and cost-effective manufacturing and distribution processes for our product candidates, if approved, including establishing and maintaining commercially viable supply relationships with third and related parties and establishing our own current Good Manufacturing Practices, or cGMP, manufacturing facilities and processes to support clinical development and meet the market demand for product candidates that we develop, if approved;
- addressing any competing therapies and technological and industry developments;
- identifying, assessing, acquiring and developing new technology platforms and product candidates across numerous therapeutic areas;
- establishing and maintaining relationships with contract research organizations, or CROs, and clinical sites for the clinical development, both in the U.S. and internationally, of our product candidates;
- successful and timely completion of preclinical and clinical development of our product candidates and any other future product candidates;
- obtaining regulatory approvals and marketing authorizations for our current and future product candidates, including a continued acceptable safety profile both prior to and following any marketing approval of our product candidates;
- making any required post-marketing approval commitments to applicable regulatory authorities;
- launching and commercializing any approved products, either directly or with a collaborator or distributor, including the development of a commercial infrastructure;
- obtaining market acceptance of and acceptable reimbursement for any approved products;
- completing collaborations, licenses and other strategic transactions on favorable terms, if at all;
- maintaining, protecting and expanding our portfolio of intellectual property rights, including patents, trade secrets and know-how;
- defending against third-party interference or infringement claims, if any; and
- attracting, hiring and retaining qualified personnel.

Even if one or more of our product candidates is eventually approved for commercial sale, we anticipate incurring significant costs associated with commercializing any approved product candidate and we may not generate significant revenue from sales of such products, resulting in limited or no profitability in the future. Our prior losses and expected future losses have had and will continue to have an adverse effect on our stockholders' equity and working capital for the foreseeable future. Any failure to become and remain profitable may adversely affect the market price of our common stock, our ability to raise additional capital and our future viability.

We will need to obtain substantial additional financing to complete the development and any commercialization of our product candidates, and a failure to obtain this necessary capital when needed on acceptable terms, or at all, could force us to delay, limit, reduce or terminate our commercialization efforts, product development or other operations.

Since our inception, we have used substantial amounts of cash to fund our operations and expect our expenses to increase substantially in the foreseeable future. Developing our product candidates and conducting clinical trials for the treatment of cancer, virally infectious diseases, and other diseases requires substantial amounts of capital. We will also require a significant additional amount of capital to commercialize any approved products.

As of September 30, 2020, we had cash and cash equivalents of $27.7 million and marketable debt securities of $62.1 million. We are using and expect to continue to use our existing cash and cash equivalents and marketable debt securities to fund expenses in connection with our ongoing and any future clinical trials, our manufacturing facilities and processes and the hiring of additional personnel, and for other research and development activities, working capital and general corporate purposes, including our previously announced share repurchase program. We believe that our existing cash, cash equivalents, and investments in marketable debt securities will be sufficient to fund our operations for at least the next 12 months following the issuance date of the financial statements. Our estimate as to how long we expect our existing cash and cash equivalents to be available to fund our operations is based on assumptions that may be proved inaccurate, and we could deplete our available capital resources sooner than we currently expect. In addition, changing circumstances may cause us to consume capital significantly faster than we currently anticipate, and we may need to spend more money than currently expected because of circumstances beyond our control. We may require additional capital for the further development and any commercialization of our product candidates and may need to raise additional funds sooner than we anticipate if we choose to expand more rapidly.

Our future capital requirements may depend on, and could increase significantly as a result of, many factors, including:

- the timing of, and the costs involved in, preclinical and clinical development and obtaining any regulatory approvals for our oncology product candidates;
- the timing of, and the costs involved with, the joint development, manufacturing and marketing of a vaccine and multiple therapeutics for COVID-19 with ImmunityBio;
- the costs of manufacturing, distributing and processing our product candidates and any products for which we receive regulatory approval, if any;
- the number and characteristics of any other product candidates we develop or acquire;
- our ability to establish and maintain strategic collaborations, licensing or other commercialization arrangements and the terms and timing of such arrangements, including our arrangements with ImmunityBio and its subsidiaries and Viracta;
- the degree and rate of market acceptance of any approved products;
- the emergence, approval, availability, perceived advantages, relative cost, relative safety and relative efficacy of other products or treatments;
- the expenses needed to attract and retain skilled personnel;
- the costs associated with being a public company;
- the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing intellectual property claims, including litigation costs and the outcome of such litigation;
- the costs related to commercializing product candidates independently;
- the timing, receipt and amount of sales of, or royalties on, any approved products; and
- any product liability or other lawsuits related to our product candidates or the company.

To the extent that we raise additional capital through the sale of equity or convertible debt securities, the ownership interest of our stockholders will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect our common stockholders' rights. Debt financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends. If we raise additional funds through collaborations, strategic alliances or licensing arrangements with pharmaceutical partners, we may have to relinquish valuable rights to our technologies, future revenue streams, research programs or product candidates, or grant licenses on terms that may not be favorable to us. Additional capital may not be available when we need it, on terms that are acceptable to us or at all. If we are unable to raise additional funds through equity or debt financings when needed, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts or grant rights to develop and market any approved products that we would otherwise prefer to develop and market ourselves, or be unable to continue or expand our operations or otherwise capitalize on our business opportunities, as desired, which could materially affect our business, financial condition and results of operations and cause the price of our common stock to decline.

We expect our business to be adversely affected by outbreaks of epidemic, pandemic or contagious diseases, including the ongoing coronavirus pandemic.

Outbreaks of epidemic, pandemic or contagious diseases, such as the coronavirus pandemic, may significantly disrupt our operations and adversely affect our business, financial condition and results of operations. In March 2020, the World Health Organization declared the outbreak of COVID-19 a global pandemic as the novel coronavirus continued to spread throughout the world. The spread of this pandemic has caused significant volatility and uncertainty in the U.S. and international markets and has resulted in increased risks to our operations. We are monitoring a number of risks related to this pandemic, including the following:

- Financial: While to date, the financial impact to our business has not been material, we anticipate that the pandemic could have an adverse financial impact in the short-term and potentially beyond. As a result of slower patient enrollment, we may not be able to complete our clinical trials as planned or in a timely manner. We expect to continue spending on research and development during the fourth quarter of 2020 and beyond, and we could also have unexpected expenses related to the pandemic. The short-term continued expenses, as well as the overall uncertainty and disruption caused by the pandemic, will likely cause a delay in our ability to commercialize a product and adversely impact our financial results.

- Supply Chain: While to date we have not experienced significant disruptions in our supply chain and distribution, an extended duration of this pandemic could result in disruptions in the future. For example, quarantines, shelter-in-place and similar government orders, travel restrictions and health impacts of the COVID-19 pandemic, could impact the availability or productivity of personnel at third-party laboratory supply manufacturers, distributors, freight carriers and other necessary components of our supply chain. In addition, there may be unfavorable changes in the availability or cost of raw materials, intermediates and other materials necessary for production, which may result in disruptions in our supply chain and adversely affect our ability to manufacture and distribute certain product candidates for clinical supply.

- Clinical Trials: This pandemic has not significantly impacted our business or financial results during the nine months ended September 30, 2020, however, it is likely to adversely affect certain of our clinical trials, including our ability to initiate and complete our clinical trials within the anticipated timelines. Due to site and participant availability during the pandemic, new subject enrollment is expected to slow in the short-term for most of our clinical trials. For ongoing trials, we have seen an increasing number of clinical trial sites imposing restrictions on patient visits to limit risks of possible COVID-19 exposure, and we may experience issues with participant compliance with clinical trial protocols as a result of quarantines, travel restrictions and interruptions to healthcare services. The current pressures on medical systems and the prioritization of healthcare resources toward the COVID-19 pandemic have also resulted in interruptions in data collection and submissions for certain clinical trials and delayed starts for certain planned studies. As a result, our anticipated filing and marketing timelines may be adversely impacted.

- Overall economic and capital markets decline: The impact of the COVID-19 pandemic could result in a prolonged recession or depression in the U.S. or globally that could harm the banking system, limit demand for all products and services and cause other seen and unforeseen events and circumstances, all of which could negatively impact us. The continued spread of COVID-19 has led to and could continue to lead to severe disruption and volatility in the U.S. and global capital markets, which could result in a decline in stock price, increase our cost of capital and adversely affect our ability to access the capital markets in the future. In addition, trading prices on the public stock market, including our common stock, have been highly volatile as a result of the COVID-19 pandemic.

- Regulatory Reviews: The operations of the FDA or other regulatory agencies may be adversely affected. In response to COVID-19, federal, state and local governments are issuing new rules, regulations, orders and advisories on a regular basis. These government actions can impact us, our members and our suppliers. There is also the possibility that we may experience delays with obtaining approvals for our Investigational New Drug, or IND, applications.

The foregoing and other risks may have an adverse effect on our overall business, financial condition and results of operations. Additionally, the ongoing COVID-19 pandemic may also affect our operating and financial results in a manner that is not presently known to us or that we currently have not considered as significant risks to our operations. This pandemic may also amplify many of the other risks described throughout the “Risk Factors” section of this Quarterly Report. Any resulting financial impact cannot be reasonably estimated at this time. The extent to which the COVID-19 pandemic impacts our business and results will depend on future developments, which are uncertain and cannot be predicted with confidence, including the duration and scope of the outbreak, any potential future waves of the pandemic, new information which may emerge concerning the severity of COVID-19 and the ongoing and future actions to contain it or treat its impact, among others.

We may use our financial and human resources to pursue a particular type of treatment, or treatment for a particular type of cancer, and fail to capitalize on programs or treatment of other types of cancer that may be more profitable or for which there is a greater likelihood of success.

Because we have limited resources, we must choose to pursue and fund the development of specific types of treatment, or treatment for a specific type of cancer or viral infectious diseases, and may forego or delay pursuit of opportunities with other programs, investigational medicines, or treatment for other types of cancer or viral infectious diseases, which could later prove to have greater commercial potential. Moreover, given the rapidly evolving competitive landscape and the time it takes to advance a product through clinical development, an incorrect decision to pursue a particular type of treatment or cancer may have a material adverse effect on our results of operation and negatively impact our future clinical strategies. Our resource allocation decisions may cause us to fail to capitalize on viable commercial products or profitable market opportunities. Our spending on current and future research and development programs for investigational medicines or clinical trials may not yield any commercially viable products. If we do not accurately evaluate and anticipate the commercial potential or target market for a particular type of treatment or cancer or viral infectious disease, we may choose to spend our limited resources on a particular treatment, or treatment for a particular type of cancer or viral infectious disease, and then later learn that another type of treatment or cancer that we previously decided not to pursue would have been more advantageous.

We invest our cash on hand in various financial instruments which are subject to risks that could adversely affect our business, results of operations, liquidity and financial condition.

We invest our cash in a variety of financial instruments, principally commercial paper, corporate debt securities and foreign government bonds. All of these investments are subject to credit, liquidity, market and interest rate risk. Such risks, including the failure or severe financial distress of the financial institutions that hold our cash, cash equivalents and investments, may result in a loss of liquidity, impairment to our investments, realization of substantial future losses, or a complete loss of the investments in the long-term, which may have a material adverse effect on our business, results of operations, liquidity and financial condition. In order to manage the risk to our investments, we maintain an investment policy that, among other things, limits the amount that we may invest in any one issue or any single issuer and requires us to only invest in high credit quality securities to preserve liquidity.

Risks Relating to Our Business and Industry

The foundation of our business is based upon the success of our aNK cells as a technology platform. Our aNK platform and product candidates derived thereof, including genetically modified haNK, taNK, t-haNK, ceNK and MSC product candidates, will require significant additional clinical testing before we can potentially seek regulatory approval and launch commercial sales.

Our business and future success depend on our ability to utilize our aNK cells as a technology platform, and to obtain regulatory approval for one or more product candidates derived from it, and then successfully commercialize our product candidates addressing numerous therapeutic areas. Our aNK platform and our haNK, taNK, t-haNK, ceNK and MSC product candidates are in varying stages of development and may never become commercialized. All of our product candidates developed from our technology platform will require additional clinical and non-clinical development, regulatory review and approval in multiple jurisdictions, substantial investment, access to sufficient commercial manufacturing capacity and significant marketing efforts before they can be successfully commercialized. Because all of our product candidates are based on the same core aNK technology, if any of our product candidates encounter safety or efficacy problems, developmental delays or regulatory issues or other problems, these could impact the development plans for our other product candidates.

Utilizing haNK, taNK, t-haNK and ceNK cells represents a novel approach to immunotherapy, including cancer treatment, and we must overcome significant challenges in order to successfully develop, commercialize and manufacture our product candidates.

We have concentrated our research and development efforts on utilizing aNK cells as an immunotherapy platform and genetically modified aNK cells as product candidates based on this platform. We believe that our product candidates represent a novel approach to immunotherapy, including cancer treatment. Advancing this novel immunotherapy creates significant challenges for us, including:

- educating medical personnel regarding the potential side effect profile of our cells;
- training a sufficient number of medical personnel how to properly administer our cells;
- enrolling sufficient numbers of patients in clinical trials;
- developing a reliable, safe and effective means of genetically modifying our cells;
- manufacturing our cells on a large scale and in a cost-effective manner;

- submitting applications for and obtaining regulatory approval, as the FDA and other regulatory authorities have limited experience with commercial development of immunotherapies for cancer and viral associated infectious diseases; and
- establishing sales and marketing capabilities, as well as developing a manufacturing process and distribution network to support the commercialization of any approved products.

We must be able to overcome these challenges in order for us to successfully develop, commercialize and manufacture our product candidates utilizing haNK, taNK, t-haNK and ceNK cells.

Even if we successfully develop and commercialize our haNK product candidate for Merkel cell carcinoma, we may not be successful in developing and commercializing our other product candidates, and our commercial opportunities may be limited.

We believe that our ability to realize the full value of our aNK platform will depend on our ability to successfully develop and commercialize haNK and our other product candidates in a wider range of indications. We are simultaneously pursuing preclinical and clinical development of a number of product candidates spanning several types of cancers. For example, we are devoting substantial resources toward the development of haNK and t-haNK product candidates as combination therapies with commercially approved monoclonal antibodies and late-stage product candidates for solid tumors such as breast, pancreatic, lung, head and neck and hematologic malignancies such as diffuse large B-cell lymphoma, or DLBCL, and serious viral diseases such as COVID-19.

Even if we are successful in continuing to build our pipeline of product candidates based on our technology platform, obtaining regulatory approvals and commercializing any approved product candidates will require substantial additional funding beyond our existing cash and cash equivalents and marketable debt securities, and are prone to numerous risks of failure. Investment in biopharmaceutical product development involves significant risks that any product candidate will fail to demonstrate adequate efficacy or an acceptable safety profile to the satisfaction of regulatory authorities, gain regulatory approval or become commercially viable. We cannot assure you that we will be able to successfully advance any product candidates through the development process. Our research programs may initially show promise in identifying product candidates, but ultimately fail to yield product candidates for clinical development or commercialization for many reasons, including the following:

- our product candidates may not succeed in preclinical or clinical testing due to failing to generate enough data to support the initiation or continuation of clinical trials or due to lack of patient enrollment in clinical trials;
- a product candidate may be shown to have harmful side effects or other characteristics in larger scale clinical studies that indicate it is unlikely to meet applicable regulatory criteria;
- competitors may develop alternatives that render our product candidates obsolete or less attractive;
- we may not be able or willing to assemble sufficient resources to acquire or discover additional product candidates from our technology platform;
- product candidates we develop may nevertheless be covered by third parties' patents or other exclusive rights;
- the market for a product candidate may change during our program so that the continued development of that product candidate is no longer reasonable;
- a product candidate may not be capable of being manufactured in commercial quantities at an acceptable cost, or at all; and
- a product candidate may not be accepted as safe and effective by patients, the medical community or third-party payors.

If any of these events occur, we may be forced to abandon our development efforts for a product candidate or the entire platform, or we may not be able to identify, discover, develop or commercialize additional product candidates, which would have a material adverse effect on our business and could potentially cause us to cease operations.

We may not be able to file INDs to commence additional clinical trials on the timelines we expect, and even if we are able to, the FDA may not permit us to proceed in a timely manner, or at all.

Prior to commencing clinical trials in the U.S. for any of our product candidates, we may be required to have an allowed IND for each product candidate. As of the date of this filing, we have numerous INDs for clinical trials that have been authorized in the U.S. We are required to file additional INDs prior to initiating our planned clinical trials. Submission of an IND may not result in the FDA allowing further clinical trials to begin and, once begun, issues may arise that will require us to suspend or terminate such clinical trials. Additionally, even if relevant regulatory authorities agree with the design and implementation of the clinical trials set forth in an IND or clinical trial application, these regulatory authorities may change their requirements in the future. The fact that we are pursuing novel technologies may also exacerbate these risks with respect to our product candidates, and as a result, we may not meet our anticipated clinical development timelines.

Our plans to support the Joint COVID-19 Collaboration by moving some of our current manufacturing facilities or repurposing personnel may cause delays in our oncology trials.

We have prepared one of our GMP manufacturing facilities previously used to manufacture product for our oncology trials to manufacture and produce a COVID-19 vaccine candidate and we are in the process of readying a new, well-equipped location to manufacture and produce clinical products for our oncology trials. We cannot assure you that we will be able to achieve GMP qualifications for this new manufacturing facility, or the extent of costs or delays in timing to do so.

Failure to achieve GMP status could adversely impact our ability to successfully develop our oncology product candidates. In addition, we have repurposed some of our manufacturing facility in Culver City, California, and personnel to support the Joint COVD-19 Collaboration Agreement. While we believe we have sufficient product in our inventory to not incur any disruptions in our current or planned oncology trials, we cannot be certain that we will not experience any unforeseen circumstances that may cause delays in our ability to manufacture sufficient product for our current or planned trials. If this occurs, such trials could be significantly delayed which would have an adverse effect on our business, financial condition, results of operations and prospects.

Our efforts regarding the Joint COVID-19 Collaboration may be difficult to integrate into our current operations and will require additional personnel who will require training which may cause some of our employees to reallocate their time from our current operations or manufacturing duties which could in turn cause delays in clinical supply of our products or trials.

After signing the binding term sheet regarding the Joint COVID-19 Collaboration in May 2020, we have made significant investments related to the development and manufacture of our COVID-19 product candidates. We have repurposed some of our personnel to support our QUILT-COVID-19-MSC program and have repurposed some of our personnel overseeing quality of our oncology products to support the Joint COVID-19 Collaboration. We also plan to hire additional staff to support the Joint COVID-19 Collaboration, which will increase our expenses. Although we do not believe the Joint COVID-19 collaboration will have a material impact on our current oncology trials in the near term, if our current personnel fail to remain focused on our oncology drug candidates, or new personnel that we plan to hire to support the Joint COVID-19 Collaboration require extensive training, our current oncology operations may be adversely impacted.

We face significant competition in the biopharmaceutical industry, and many of our competitors have substantially greater experience and resources than we have.

Even if our aNK platform products prove successful, we might not be able to remain competitive because of the rapid pace of technological development in the biopharmaceutical field. Our haNK, taNK, t-haNK and ceNK product candidates compete with other cell and molecule-based immunotherapy approaches using or targeting natural killer cells, T-cells and dendritic cells.

Competitors focused on CAR-T related treatment approaches include AbbVie Inc., Atara Biotherapeutics, Inc., Precigen Corporation, Inc., Allogene Therapeutics, Inc., Bristol-Myers Squibb Company, Beijing Immunochina Pharmaceuticals Co., Ltd., Cellular Biomedicine Group, Inc., iCell Gene Therapeutics LLC, JW Therapeutics Co., Ltd., Amgen, Inc., Leucid Bio Ltd., Bellicum Pharmaceuticals, Inc., Medisix Therapeutics Pte Ltd., Bluebird Bio, Inc., Mesoblast Ltd., Calibr/Scripps Research, Mustang Bio, Inc., Carina Biotech, Inc., CARsgen Therapeutics, CRISPR Therapeutics, Inc., GEMoaB Monoclonals GmbH, Nanjing Legend Biotechnology Co., Ltd, Cartherics Pty Ltd, Novartis AG, Pfizer, Inc., Cellectis SA, Poseida Therapeutics, Inc., Prepromene Bio, Inc., Celularity, Inc., Servier Laboratories, Sorrento Therapeutics, Inc., Celyad SA, Takeda Pharmaceutical Company Limited, Fortress Biotech, Inc., TC BioPharm Ltd., Tessa Therapeutics Pte Ltd, Gilead Sciences, Inc., Tmunity Therapeutics, Inc., Transposagen Biopharmaceuticals, Inc., Humanigen, Inc., Unum Therapeutics, Inc., Immune Therapeutics, Inc., and Xyphos, Inc.

Competitor companies focused on other T-cell based approaches include Adaptimmune Ltd., Adicet Bio, Inc., Autolus Therapeutics, plc, Cell Medica Limited, Eureka Therapeutics, Inc., Formula Pharmaceuticals, Inc., GlaxoSmithKline plc., Green Cross LabCell Corp., Immatics Biotechnologies GmbH, Immunocore Limited, Iovance Biotherapeutics, Inc., Kiadis Pharma Netherlands B.V., Lion TCR Pte Ltd., MolMed, S.p.A., Precision Biosciences, Inc., Janssen Pharmaceuticals, Inc., Noile-Immune Biotech, Inc., Anixa Biosciences, Inc., Beam Therapeutics Inc., BioNTech SE, Cartesian Therapeutics, Inc., Marker Therapeutics, Inc., Refuge Biotechnologies, Inc., Repertoire Immune Medicines, Inc., Sensei Biotherapeutics, Inc., Senti Biosciences, Inc., TCR² Therapeutics Inc., TScan Therapeutics, Inc., and Takara Bio, Inc.

Competitor companies focused on dendritic cell based approaches include Argos Therapeutics, Inc., Biovest International, Inc., ImmunoCellular Therapeutics, Ltd., Merck & Co, Inc./Immune Design, Inc., Inovio Pharmaceuticals, Inc., Precigen Corporation, Inc., Medigene AG, and Northwest Biotherapeutics, Inc.

Competitor companies focused on natural killer cell based approaches include Celularity, Inc., Kiadis Pharma Netherlands B.V./CytoSen Therapeutics, Inc., Dragonfly Therapeutics, Inc., Fate Therapeutics, Inc., Gamida Cell, Ltd., Nkarta Therapeutics, Inc., Onkimmune Ltd., NKMax America, Artiva Biotherapeutics, HebeCell Corp., Vycellix, Inc., oNKo-innate Pty Ltd., Takeda Pharmaceutical Company Limited, and Ziopharm Oncology, Inc.

Competitor companies focused on large molecule immunotherapy approaches include Cytomx Therapeutics, Inc., Innate Pharma SA, and Sorrento Therapeutics, Inc.

Other potential immunotherapy competitors include Affimed GmbH, Agios Pharmaceuticals, Inc., Codiak Biosciences, Glycostem Therapeutics BV, Triumvira Immunologics, Century Therapeutics, Incysus Therapeutics, Inc., GammaDelta Therapeutics Ltd., Lyell Immunopharma, Inc., and GT Biopharma, Inc.

There are currently two approved T-cell based treatments which are marketed by Novartis AG and Gilead Sciences/Kite Pharma. There is currently one approved dendritic cell-based cancer vaccine which is marketed by Dendron Pharmaceuticals, LLC for the treatment of metastatic castration resistant prostate cancer.

Competitor companies focused on COVID-19 cell therapy currently include Athersys, Inc./Healios K.K., Capricor Therapeutics, Inc., CAR-T (Shanghai) Biotechnology, Cellavita Pesquisa Científica Ltda, Cellenkos, Inc., Cellular Biomedicine Group, Inc., Celularity, Inc., Sorrento Therapeutics, Inc., Chinese Academy of Sciences, Chongqing Sidemu Biotechnology Technology/ImmunCyte Life Sciences, Inc., Enlivex Therapeutics Ltd, Green Cross LabCell Corp., Hope Biosciences, Mesoblast Limited, Orbsen Therapeutics Limited, Pluristem Therapeutics, Inc., Rigshospitalet, Tianhe Stem Cell Biotechnologies Inc., University of Minnesota/Fate Therapeutics, Inc., and Xinjiang Medical University.

In addition, a very large number of companies, government agencies and academic centers around the world are developing COVID-19 vaccines, and many of these entities are in more advanced stages of development than ImmunityBio, including some that have started Phase II and/or III clinical trials. Even if ImmunityBio's COVID-19 vaccine candidate is ultimately approved for marketing, the value of our profit-sharing opportunity would be adversely impacted if other COVID-19 vaccines are approved earlier or show better efficacy or safety than ImmunityBio's COVID-19 vaccine candidate.

Many of our current or potential competitors have greater financial and other resources, larger research and development staffs, and more experienced capabilities in researching, developing and testing products than we do. Many of these companies also have more experience in conducting clinical trials, obtaining FDA and other regulatory approvals, and manufacturing, marketing and distributing therapeutic products. Smaller or clinical-stage companies like us may successfully compete by establishing collaborative relationships with larger pharmaceutical companies or academic institutions. Mergers and acquisitions in the pharmaceutical and biotechnology industries may result in even more resources being concentrated among a smaller number of our competitors. These competitors also compete with us in recruiting and retaining qualified scientific and management personnel and establishing clinical trial sites and patient registration for clinical trials, as well as in acquiring technologies complementary to, or necessary for, our programs. Our commercial opportunity could be reduced or eliminated if our competitors develop and commercialize products that are safer, more effective, have fewer or less severe side effects, are more convenient, or are less expensive than any products that we may develop. Furthermore, currently approved products could be discovered to have application for treatment of cancer and other diseases, which could give such products significant regulatory and market timing advantages over any of our product candidates. In addition, large pharmaceutical companies or other companies with greater resources or experience than us may choose to forgo therapy opportunities that would have otherwise been complementary to our product development and collaboration plans. Our competitors may succeed in developing, obtaining patent protection for, or commercializing their products more rapidly than us, which could result in our competitors establishing a strong market position before we are able to enter the market. A competing company developing or acquiring rights to a more effective therapeutic product for the same diseases targeted by us, or one that offers significantly lower costs of treatment could render our products noncompetitive or obsolete. We may not be successful in marketing against competitors any product candidates we may develop.

Our business plan involves the creation of a complex integrated ecosystem capable of addressing a wide range of indications. As a result, our future success depends on our ability to prioritize among many different opportunities.

We do not have sufficient resources to pursue development of all or even a substantial portion of the potential opportunities that we believe will be afforded to us by our planned integrated ecosystem. Because we have limited resources and access to capital to fund our operations, our management must make significant prioritization decisions as to which product candidates to pursue and how much of our resources to allocate to each. Our management has broad discretion to suspend, scale down, or discontinue any or all of these development efforts, or to initiate new programs to treat other diseases. If we select and commit resources to opportunities that we are unable to successfully develop, or we forego more promising opportunities, our business, financial condition and results of operations will be adversely affected.

We plan to develop our product candidates and potentially other programs in combination with other commercially available therapies or therapies we, or an affiliate of ours, have in development, which exposes us to additional risks. We do not know whether our attempts to use our product candidates in combination will be safe or effective.

We intend to develop cryopreserved PD-L1.t-haNK, haNK, and potentially other programs in combination with one or more currently approved cancer therapies or therapies in development. For Merkel cell carcinoma, we plan to evaluate haNK in combination with N-803 and avelumab. For pancreatic cancer, TNBC, and breast cancer indications, we plan to evaluate PD-L1.t-haNK in combination with N-803 and aldoxorubicin. For NSCLC indications, we plan to evaluate PD-L1.t-haNK in combination with N-803 and a checkpoint inhibitor.

Patients may not be able to tolerate any of our other product candidates in combination with any other therapies or dosing of our product candidates in combination with other therapies may have serious or unexpected adverse events. Furthermore, we will be required to show with substantial evidence that the combination of drugs when used together are more effective than each of the individual drugs used separately. We can provide no assurance that we can establish that any of our product candidates, when used in combination with other drugs, will be more effective than each individual drug when used alone.

We may also evaluate our product candidates in combination with one or more other cancer therapies that have not yet been approved for marketing by the FDA, the European Medicines Agency, or EMA, or comparable foreign regulatory authorities. We will not be able to market and sell any product candidate in combination with any such unapproved cancer therapies that do not ultimately obtain marketing approval.

If the FDA, EMA or other comparable foreign regulatory authorities do not approve or revoke their approval of these other therapies, or if safety, efficacy, purity, potency, commercial adoption, manufacturing or supply issues arise with the therapies we choose to evaluate in combination with any of our product candidates, we may be unable to obtain approval of or successfully market any one or all of the product candidates we develop.

Additionally, if the third-party providers of therapies or therapies in development used in combination with our product candidates are unable to produce sufficient quantities for clinical trials or for commercialization of our product candidates, or if the cost of combination therapies are prohibitive, our development and commercialization efforts would be impaired, which would have an adverse effect on our business, financial condition, results of operations and growth prospects. If clinical trial collaboration and supply agreement terminates or if we cannot negotiate favorable terms for combination therapies, our combination therapy development plans could be delayed or terminated, and the cost to us to conduct such trials may significantly increase.

Clinical development involves a lengthy and expensive process with an uncertain outcome, and results of earlier studies and trials may not be predictive of future clinical trial results. We may encounter substantial delays in clinical trials, or may not be able to conduct or complete clinical trials on the expected timelines, if at all. If our preclinical studies and clinical trials are not sufficient to support regulatory approval of any of our product candidates, we may incur additional costs or experience delays in completing, or ultimately be unable to complete, the development of such product candidate.

It is impossible to predict when or if any of our product candidates and therapies will prove safe, effective, or potent in humans or will receive regulatory approval. Before obtaining marketing approval from regulatory authorities for the sale of any product candidate, we must complete extensive preclinical studies and clinical trials to demonstrate the safety, efficacy or potency of our product candidates in humans. A failure of one or more clinical trials can occur at any stage of testing. The outcome of early clinical trials may not be predictive of the success of later clinical trials, and interim results of a clinical trial do not necessarily predict final results. Moreover, preclinical and clinical data are often susceptible to varying interpretations and analyses, and many companies that have believed their product candidates performed satisfactorily in preclinical studies and clinical trials have nonetheless failed to obtain marketing approval of their product candidates. Our pre-clinical studies and future clinical trials may not be successful.

We cannot be certain that our planned clinical trials will be sufficient to support regulatory approval of our product candidates. Clinical testing is expensive and can take many years to complete, and its outcome is inherently uncertain. Human clinical trials are expensive and difficult to design and implement, in part because they are subject to rigorous regulatory requirements. Failure or delay can occur at any time during the clinical trial process.

We may experience delays in obtaining the FDA's authorization to initiate clinical trials under future INDs, completing ongoing preclinical and clinical studies of our other future product candidates, and initiating our planned preclinical studies and clinical trials. Additionally, we cannot be certain that preclinical studies or clinical trials for our product candidates will begin on time, not require redesign, enroll an adequate number of research subjects or patients on time, or be completed on schedule, if at all. Clinical trials can be delayed or terminated for a variety of reasons, including delays or failures related to:

- the FDA or comparable foreign regulatory authorities disagreeing as to the design or implementation of our clinical trials;

- the FDA or comparable foreign regulatory authorities disagreeing with our tissue-agnostic anti-tumor development strategy;
- delays in obtaining regulatory approval to commence a clinical trial;
- reaching agreement on acceptable terms with prospective CROs and clinical trial sites, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and clinical trial sites;
- obtaining institutional review board, or IRB, approval at each clinical trial site;
- recruiting an adequate number of suitable patients to participate in a clinical trial;
- the number of patients required for clinical trials of our product candidates may be larger than we anticipate;
- having subjects complete a clinical trial or return for post-treatment follow-up;
- clinical trial sites deviating from clinical trial protocol or dropping out of a clinical trial;
- addressing subject safety concerns that arise during the course of a clinical trial;
- adding a sufficient number of clinical trial sites; or
- obtaining sufficient product supply of product candidates for use in preclinical studies or clinical trials from third-party suppliers.

We may experience numerous adverse or unforeseen events during, or as a result of, preclinical studies and clinical trials that could delay or prevent our ability to receive marketing approval or commercialize our product candidates, including:

- we may receive feedback from regulatory authorities that requires us to modify the design of our clinical trials, including additional procedures and contingency measures in response to the COVID-19 pandemic or as required by clinical sites, IRB, or FDA;
- clinical trials of our product candidates may produce negative or inconclusive results, and we may decide, or regulators may require us, to conduct additional clinical trials or abandon our research efforts for our other future product candidates;
- clinical trials of our product candidates may not produce differentiated or clinically significant results across tumor types or indications;
- the number of patients required for clinical trials of our product candidates may be larger than we anticipate, enrollment in these clinical trials may be slower than we anticipate or participants may drop out of our clinical trials at a higher rate than we anticipate;
- our third-party contractors may fail to comply with regulatory requirements, fail to maintain adequate quality controls or be unable to provide us with sufficient product supply to conduct and complete preclinical studies or clinical trials of our product candidates in a timely manner, or at all;

We or our investigators might have to suspend or terminate clinical trials of our product candidates for various reasons, including:

- non-compliance with regulatory requirements, a finding that our product candidates have undesirable side effects or other unexpected characteristics or a finding that the participants are being exposed to unacceptable health risks;
- the cost of clinical trials of our product candidates may be greater than we anticipate, for example, if we experience delays or challenges in identifying patients with the mutations required for our clinical trials, we may have to reimburse sites for genetic sequencing costs in order to encourage sequencing of additional patients;
- the quality of our product candidates or other materials necessary to conduct preclinical studies or clinical trials of our product candidates may be insufficient or inadequate, and any transfer of manufacturing activities may require unforeseen manufacturing or formulation changes;
- regulators may revise the requirements for approving our product candidates, or such requirements may not be as we anticipate; and
- future collaborators may conduct clinical trials in ways they view as advantageous to them but that are suboptimal for us.

We have commenced studies that may provide the basis for regulatory approval, but we have not sought or obtained FDA input on the trial design, number of patients that will be enrolled in the studies, or statistical analysis plan. FDA may not accept the data generated from these studies and my reject any regulatory applications we submit with this data. If we are required to conduct additional clinical trials or other testing of our product candidates beyond those that we currently contemplate, if we are unable to successfully complete clinical trials of our product candidates or other testing, if the results of these trials or tests are not positive or are only moderately positive or if there are safety concerns, our business and results of operations may be adversely affected and we may incur significant additional costs. We could also encounter delays if a clinical trial is suspended or terminated by us, by the IRBs of the institutions in which such clinical trials are being conducted, by the Data Safety Monitoring Board, if any, for such clinical trial or by the FDA or other regulatory authorities. Such authorities may suspend or terminate a clinical trial due to a number of factors, including failure to conduct the clinical trial in accordance with regulatory requirements or our clinical trial protocols, inspection of the clinical trial operations or trial site by the FDA or other regulatory authorities resulting in the imposition of a clinical hold, unforeseen safety issues or adverse side effects, failure to demonstrate a benefit from the product candidates, changes in governmental regulations or administrative actions or lack of adequate funding to continue the clinical trial.

If we experience delays in the completion, or termination, of any preclinical study or clinical trial of our product candidates, the commercial prospects of our product candidates may be harmed, and our ability to generate revenues from any of these product candidates will be delayed or not realized at all. In addition, any delays in completing our preclinical studies or clinical trials may increase our costs, slow down our product candidate development and approval process and jeopardize our ability to commence product sales and generate revenues. Any of these occurrences may significantly harm our business, financial condition and prospects. In addition, many of the factors that cause, or lead to, a delay in the commencement or completion of clinical trials may also ultimately lead to the denial of regulatory approval of our product candidates. If one or more of our product candidates generally prove to be ineffective, unsafe or commercially unviable, our entire pipeline and platform would have little, if any, value, which would have a material and adverse effect on our business, financial condition, results of operations and prospects.

Clinical drug development involves a lengthy and expensive process with an uncertain outcome, results of earlier studies and clinical trials may not be predictive of future clinical trial results, we may not be able to rely on the aNK and haNK phase I and II clinical trials data for our other product candidates, and our clinical trials may fail to adequately demonstrate substantial evidence of safety and efficacy of our product candidates. The results of our clinical trials may not satisfy the requirements of the FDA or other comparable foreign regulatory authorities, and we may incur additional costs or experience delays in completing, or ultimately be unable to complete, the development and commercialization of such product candidate.

Clinical testing is expensive and can take many years to complete, and its outcome is inherently uncertain. A failure of one or more of our clinical trials can occur at any time during the clinical trial process. The results of preclinical studies and early clinical trials of our product candidates may not be predictive of the results of later-stage clinical trials. There is a high failure rate for product candidates proceeding through clinical trials, and product candidates in later stages of clinical trials may fail to show the required safety and efficacy despite having progressed through preclinical studies and initial clinical trials. A number of companies in the pharmaceutical industry have suffered significant setbacks in advanced clinical trials due to lack of efficacy or adverse safety profiles, notwithstanding promising results in earlier clinical trials, and we cannot be certain that we will not face similar setbacks. Even if our clinical trials are completed, the results may not be sufficient to support obtaining regulatory approval for our product candidates. In addition, our strategy and anticipated timelines are predicated upon our ability to utilize the phase I and II clinical trial data for aNK, haNK, and t-haNK observed to date to support our planned clinical trials for all of our product candidates, including our haNK and t-haNK product candidates. To date, we have several INDs for our haNK and t-haNK product candidates, and we cannot offer assurances that the FDA will allow us to utilize the phase I and II aNK and haNK data to support other planned clinical trials or allow our anticipated INDs for (i) planned phase I or phase Ib/IIa clinical trials for our other product candidates, (ii) planned phase IIb/III clinical trials for our haNK and t-haNK product candidates as potential combination therapies, or (iii) any other planned clinical trials, including registration studies.

We have in the past experienced delays in our ongoing clinical trials and we may experience additional delays in the future. We do not know whether future clinical trials, if any, will begin on time, need to be redesigned, enroll an adequate number of patients on time or be completed on schedule, if at all. Clinical trials can be delayed, suspended or terminated by us, regulatory authorities, clinical trial investigators, and ethics committees for a variety of reasons, including failure to:

- generate sufficient preclinical, toxicology, or other *in vivo* or *in vitro* data to support the initiation or continuation of clinical trials;
- obtain regulatory authorization, or feedback on clinical trial design, to commence a clinical trial;
- identify, recruit and train suitable clinical investigators;

- reach agreement on acceptable terms with prospective Contract Research Organizations, or CROs, and clinical trial sites;
- obtain and maintain IRB approval at each clinical trial site;
- identify, recruit and enroll suitable patients to participate in a clinical trial;
- have a sufficient number of patients complete a clinical trial or return for post-treatment follow-up;
- ensure that our third-party contractors and clinical investigators comply with clinical trial protocols, comply with regulatory requirements, or meet their obligations to us in a timely manner;
- address any patient safety concerns that arise during the course of a clinical trial;
- address any conflicts with new or existing laws or regulations;
- add a sufficient number of clinical trial sites;
- timely manufacture sufficient quantities of product candidate for use in clinical trials; or
- raise sufficient capital to fund a clinical trial.

Patient enrollment is a significant factor in the timing of clinical trials and is affected by many factors, including the size and nature of the patient population, the proximity of patients to clinical sites, the eligibility criteria for the clinical trial, the design of the clinical trial, competing clinical trials and clinicians' and patients' or caregivers' perceptions as to the potential advantages of the drug candidate being studied in relation to other available therapies, including any new drugs or treatments that may be approved for the indications we are investigating.

We could also encounter delays if a clinical trial is suspended or terminated by us, by the data safety monitoring board for such clinical trial or by the FDA or any other regulatory authority, or if the IRBs of the institutions in which such clinical trials are being conducted suspend or terminate the participation of their clinical investigators and sites subject to their review. Such authorities may suspend or terminate a clinical trial due to a number of factors, including failure to conduct the clinical trial in accordance with regulatory requirements, including Good Clinical Practices, or GCPs, or our clinical protocols, inspection of the clinical trial operations or clinical trial site by the FDA or other regulatory authorities resulting in the imposition of a clinical hold, unforeseen safety issues or adverse side effects, failure to demonstrate a benefit from using a product candidate, changes in governmental regulations or administrative actions or lack of adequate funding to continue the clinical trial.

In addition, even if such clinical trials are successfully completed, we cannot guarantee that the FDA or foreign regulatory authorities will interpret the results as we do, and more trials could be required before we submit our product candidates for approval. To the extent that the results of the trials are not satisfactory to the FDA or foreign regulatory authorities for support of a marketing application, we may be required to expend significant resources, which may not be available to us, to conduct additional trials in support of potential approval of our product candidates. Even if regulatory approval is secured for any of our product candidates, the terms of such approval may limit the scope and use of our product candidate, which may also limit its commercial potential.

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

We use Immuno-Oncology Clinic, Inc., a related party, in some of our clinical trials which may expose us to significant regulatory risks. If our data for this site is not sufficiently robust or if there are any data integrity issues, we may be required to repeat such studies or required to contract with other clinical trial sites, and our clinical development plans will be significantly delayed, and we will incur additional costs.

Many of our Phase I and II clinical trials for our haNK, PD-L1.t-haNK and other t-haNK products have been conducted by Immuno-Oncology Clinic, Inc., which is a related party. Relying on a related party clinical site to develop data that is used as the basis to support regulatory approval can expose us to significant regulatory risks. For example, a study used to support regulatory approval that is conducted at a related party site can be rejected by the FDA if there are data integrity issues, or if there are significant good clinical practice violations at the site. If any data integrity, or regulatory non-compliance issues occur during the study, we may not be able to use the data for our regulatory approval. Furthermore, if the operations of the clinical site is disrupted or if the site experiences disruptions in its clinical supplies or resources, such as potential disruptions due to COVID-19, then we may be required to suspend or terminate the study at this site, and we may need to contract with other clinical sites for the study, which will delay our clinical development and regulatory approval for the product candidate. Failure of this site to comply with the regulations or to recruit a sufficient number of patients may require us to delay submission for regulatory approval or repeat clinical trials, which would delay the regulatory approval process. Moreover, our business may be implicated if the site violates federal or state fraud and abuse or false claims laws and regulations or healthcare privacy and security laws.

Results for any patient who receives compassionate use access to our product candidates should not be viewed as representative of how the product candidate will perform in a well-controlled clinical trial, and cannot be used to establish safety or efficacy for regulatory approval.

We often receive requests for compassionate use access to our investigational drugs by patients that do not meet the entry criteria for enrollment into our clinical studies. Generally, patients requesting compassionate use have no other treatment alternatives for life threatening conditions. We evaluate each compassionate use request on an individual basis, and in some cases grant access to our investigational products outside of our sponsored clinical studies, and where a physician certifies the patient they are treating is critically ill and does not meet the entry criteria for one of our open clinical trials. Individual patient results from compassionate use access may not be used to support submission of a regulatory application, nor support approval of a product candidate. Although one patient with pancreatic cancer who was provided compassionate use access to our product candidates has experienced a six month complete remission after being treated, such results should not be considered to be indicative of results from any on-going or future well-controlled clinical trial. Before we can seek regulatory approval for any of our product candidates, we must demonstrate in well-controlled clinical trials statistically significant evidence that the product candidate is both safe and effective for the indication we are seeking approval. The results of our compassionate use program may not be used to establish safety or efficacy or regulatory approval.

We may be unable to obtain regulatory approval for our product candidates. The denial or delay of any such approval would delay commercialization and have a material adverse effect on our potential to generate revenue, our business and our results of operations.

The research, development, testing, manufacturing, labeling, packaging, approval, promotion, advertising, storage, recordkeeping, marketing, distribution, post-approval monitoring and reporting, and export and import of biopharmaceutical products are subject to extensive regulation by the FDA, and by foreign regulatory authorities in other countries. These regulations differ from country to country. To gain approval to market our product candidates, we must provide regulatory authorities with substantial evidence of safety, purity and potency of the product for each indication we seek to commercialize. We have not yet obtained regulatory approval to market any of our product candidates in the U.S. or any other country. Our business depends upon obtaining these regulatory approvals.

The FDA can delay, limit or deny approval of our product candidates for many reasons, including:

- our inability to satisfactorily demonstrate with substantial clinical evidence that the product candidates are safe, pure and potent for the requested indication;
- the FDA's disagreement with our clinical trial protocol or the interpretation of data from preclinical studies or clinical trials;
- the population studied in the clinical trial not being sufficiently broad or representative to assess safety in the full population for which we seek approval;
- our inability to demonstrate that clinical or other benefits of our product candidates outweigh any safety or other perceived risks;
- the FDA's determination that additional preclinical or clinical trials are required;
- the FDA's non-approval of the labeling or the specifications of our product candidates;

- the FDA's failure to accept the manufacturing processes or facilities of third-party manufacturers with which we may contract;
- for clinical trials conducted by the Immuno-Oncology Clinic, Inc., or the Clinic, a related party, the FDA or other regulatory authorities could view our study results as potentially biased even if we achieve such clinical trial endpoints; or
- the potential for approval policies or regulations of the FDA to significantly change in a manner rendering our clinical data insufficient for approval.

Even if we eventually successfully complete clinical testing and receive approval of any regulatory filing for our product candidates, the FDA may only grant approval contingent on the performance of costly additional post-approval clinical trials. The FDA may also approve our product candidates for a more limited indication or a narrower patient population than we originally requested, and the FDA may not approve the labeling that we believe is necessary or desirable for the successful commercialization of our product candidates. To the extent we seek regulatory approval in foreign countries, we may face challenges similar to those described above with regulatory authorities in applicable jurisdictions. Any delay in obtaining, or our inability to obtain, applicable regulatory approval for any of our product candidates would delay or prevent commercialization of our product candidates and would materially adversely impact our business, results of operations, financial condition and prospects.

Use of our product candidates could be associated with side effects or adverse events.

As with most biopharmaceutical products, use of our product candidates could be associated with side effects or adverse events, which can vary in severity and frequency. Side effects or adverse events associated with the use of our product candidates may be observed at any time, including in clinical trials or once a product is commercialized, and any such side effects or adverse events may negatively affect our ability to obtain regulatory approval or market our product candidates. Side effects such as toxicity or other safety issues associated with the use of our product candidates could require us to perform additional studies or halt development or sale of these product candidates or expose us to product liability lawsuits, which will harm our business. We may be required by regulatory agencies to conduct additional preclinical or clinical trials regarding the safety and efficacy of our product candidates, which we have not planned or anticipated. We cannot provide any assurance that we will resolve any issues related to any product-related adverse events to the satisfaction of the FDA or any regulatory agency in a timely manner or ever, which could harm our business, prospects and financial condition.

If we are successful in commercializing our product candidates, the FDA and other foreign regulatory agency regulations will require that we report certain information about adverse medical events if those products may have caused or contributed to those adverse events. The timing of our obligation to report would be triggered by the date we become aware of the adverse event, as well as the nature of the event. We may inadvertently fail to report adverse events we become aware of within the prescribed timeframe. We may also fail to appreciate that we have become aware of a reportable adverse event, especially if it is not reported to us as an adverse event or if it is an adverse event that is unexpected or removed in time from the use of our products. If we fail to comply with our reporting obligations, the FDA or other foreign regulatory agencies could take action including criminal prosecution, the imposition of civil monetary penalties, seizure of our products, or delay in approval or clearance of future products.

The clinical and commercial utility of our aNK, haNK, t-haNK, ceNK and MSC platforms are uncertain and may never be realized.

Our NK platforms are in the early stages of development. The company currently has multiple ongoing clinical trials to evaluate cryopreserved haNK and t-haNK cells in company sponsored clinical trials. Success in early clinical trials does not ensure that large-scale clinical trials will be successful nor does it predict final results. In addition, we will not be able to treat patients if we cannot manufacture a sufficient quantity of NK cells that meet our minimum specifications. In addition, our haNK product candidate has only been tested in a small number of patients. Results from these clinical trials may not necessarily be indicative of the safety and tolerability or efficacy of our products as we expand into larger clinical trials.

We may not ultimately be able to provide the FDA with substantial clinical evidence to support a claim of safety, purity and potency sufficient to enable the FDA to approve aNK platform product candidates for any indication. This may be because later clinical trials fail to reproduce favorable data obtained in earlier clinical trials, because the FDA disagrees with how we interpret the data from these clinical trials, or because the FDA does not accept these therapeutic effects as valid endpoints in pivotal clinical trials necessary for market approval. We will also need to demonstrate that aNK platform product candidates are safe. We do not have data on possible harmful long-term effects of aNK platform product candidates and do not expect to have this data in the near future. As a result, our ability to generate clinical safety and effectiveness data sufficient to support submission of a marketing application or commercialization of our aNK platform therapy is uncertain and is subject to significant risk.

We have limited experience as a company conducting clinical trials and have relied and will rely on third parties and related parties to conduct many of our preclinical studies and clinical trials. Any failure by a third party, related party, or by us to conduct the clinical trials according to Good Clinical Practices and in a timely manner may delay or prevent our ability to seek or obtain regulatory approval for or commercialize our product candidates.

To date, the only company sponsored studies to engage in patient enrollment have been for the following indications: Merkel cell, pancreatic, squamous head and neck, non-small cell lung, triple negative breast, AML, colorectal and advanced solid tumor. Our relative lack of experience conducting clinical trials may contribute to our planned clinical trials not beginning or completing on time, if at all. In addition, we have entered into an agreement with the Clinic, a related party, to continue to conduct and oversee certain of our clinical trials. Large-scale clinical trials will require significant additional resources and reliance on Contract Research Organizations, or CROs, clinical investigators, or consultants. Consequently, our reliance on outside parties may introduce delays beyond our control. Our CROs, the Clinic, and other third parties must communicate and coordinate with one another in order for our trials to be successful. Additionally, our CROs, the Clinic, and other third parties may also have relationships with other commercial entities, some of which may compete with us. If our CROs, the Clinic, or other third parties conducting our clinical trials do not perform their contractual duties or regulatory obligations, experience work stoppages, do not meet expected deadlines, terminate their agreements with us or need to be replaced, or if the quality or accuracy of the clinical data they obtain is compromised due to the failure to adhere to our clinical trial protocols, GCPs, or other regulatory requirements or for any other reason, we may need to conduct additional clinical trials or enter into new arrangements with alternative CROs, clinical investigators or other third parties. We may be unable to enter into arrangements with alternative CROs on commercially reasonable terms, or at all.

We, the Clinic, and the third parties upon which we rely are required to comply with GCPs. GCPs are regulations and guidelines enforced by regulatory authorities around the world, through periodic inspections, for products in clinical development. If we or these third parties fail to comply with applicable GCP regulations, the clinical data generated in our clinical trials may be deemed unreliable and have to be repeated, and our submission of marketing applications may be delayed or the regulatory authorities may require us to perform additional clinical trials before approving our marketing applications. We are subject to the risk that, upon inspection, a regulatory authority will determine that any of our clinical trials fail to comply or failed to comply with applicable GCP regulations. In addition, our clinical trials must be conducted with material produced under GMP and Good Tissue Practice, or GTP, regulations, which are enforced by regulatory authorities. Our failure to comply with these regulations may require us to repeat clinical trials, which would delay the regulatory approval process. Moreover, our business may be significantly impacted if our CROs, the Clinic, clinical investigators or other third parties violate federal or state healthcare fraud and abuse or false claims laws and regulations or healthcare privacy and security laws.

We also anticipate that part of our strategy for pursuing the wide range of indications potentially addressed by our aNK, haNK, taNK, t-haNK, ceNK and MSC platforms will involve further investigator-initiated clinical trials. While these trials generally provide us with valuable clinical data that can inform our future development strategy in a cost-efficient manner, we generally have less control over not only the conduct but also the design of these clinical trials. Third-party investigators may design clinical trials involving our product candidates with clinical endpoints that are more difficult to achieve or in other ways that increase the risk of negative clinical trial results compared to clinical trials we may design on our own. Negative results in investigator-initiated clinical trials, regardless of how the clinical trial was designed or conducted, could have a material adverse effect on our prospects and the perception of our product candidates.

Moreover, principal investigators for our clinical trials may serve as scientific advisors or consultants to us from time to time and receive compensation in connection with such services. In addition, some of our trials are being run by the Clinic, which is controlled by one of our employees. Under certain circumstances, the company may be required to report some of these relationships to the FDA. The FDA may conclude that a financial relationship between the company, the Clinic and/or a principal investigator has created a conflict of interest or otherwise affected interpretation of the study. The FDA may therefore question the integrity of the data generated at the applicable clinical trial site and the utility of the clinical trial itself may be jeopardized. This could result in a delay in approval, or rejection, of our marketing applications by the FDA and may ultimately lead to the denial of regulatory approval of one or more of our product candidates.

We and ImmunityBio may not be successful in jointly developing and obtaining regulatory approval for any collaborative COVID-19 product candidates.

The risks described in this section regarding the development and regulatory approval of our product candidates in oncology are also applicable to the product candidates that we and ImmunityBio intend to jointly develop under the Joint COVID-19 Collaboration, including ImmunityBio's COVID-19 vaccine candidate. In particular, while the second generation adenovirus used in ImmunityBio's COVID-19 vaccine candidate has been tested in Phase I trials for oncology indications and has been generally well-tolerated in those studies, the COVID-19 vaccine candidate uses a different construct directed towards the SARS-CoV-2 virus. This vaccine candidate has never been tested in humans and very limited preclinical data has been generated to date. In addition, the biology of the SARS-CoV-2 virus and pathology of COVID-19 disease are not fully understood and new information is constantly emerging. Thus,

there remains substantial uncertainty about how ImmunityBio's COVID-19 vaccine candidate will perform in clinical trials, the timelines to complete development of the vaccine candidate and whether the FDA or other regulatory agencies will approve the vaccine candidate for marketing. If we and ImmunityBio are unable to successfully develop, obtain regulatory approval for, manufacture at scale and commercialize product candidates for COVID-19, or if the Joint COVID-19 Collaboration is terminated, we may not be able to realize any share of net sales of resulting products or recoup the substantial investments we expect to make in our joint development efforts.

We are heavily dependent on our senior management, particularly Mr. Richard Adcock, Dr. Patrick Soon-Shiong and Dr. Barry Simon, and a loss of a member of our senior management team in the future, even if only temporary, could harm our business.

If we lose members of our senior management for a short or an extended time, we may not be able to find appropriate replacements on a timely basis, and our business could be adversely affected. Our existing operations and continued future development depend to a significant extent upon the performance and active participation of certain key individuals, including Mr. Adcock, our CEO, Dr. Soon-Shiong, our Chairman and our principal stockholder, and Dr. Simon, our President and Chief Administrative Officer. The risks related to our dependence upon Dr. Soon-Shiong are particularly acute given his ownership percentage, the commercial and other relationships that we have with entities affiliated with him, his role in our company and reputation. We may also be dependent on additional funding from Dr. Soon-Shiong and his affiliates, which may not be available when needed. If we were to lose Mr. Adcock, Dr. Soon-Shiong or Dr. Simon for a short or an extended time, for any reason, including the contraction of COVID-19, we may not be able to find appropriate replacements on a timely basis and our financial condition and results of operations could be materially adversely affected.

Competition for qualified personnel in the biotechnology and pharmaceuticals industry is intense due to the limited number of individuals who possess the skills and experience required. To induce valuable employees to remain at our company, in addition to salary and cash incentives, we have provided stock options and restricted stock units that vest over time. The value to employees of stock options and restricted stock units that vest over time may be significantly affected by movements in our stock price that are beyond our control, and may at any time be insufficient to counteract more lucrative offers from other companies. Despite our efforts to retain valuable employees, members of our management, scientific and development teams may terminate their employment with us on short notice. We face significant competition for employees, particularly scientific personnel, from other biopharmaceutical companies, which include both publicly traded and privately held companies, and we may not be able to hire new employees quickly enough to meet our needs. Although we have employment agreements with our key employees, these employment agreements provide for at-will employment, which means that any of our employees could leave our employment at any time, with or without notice. Except with respect to Dr. Simon, we do not maintain "key man" insurance policies on the lives of these individuals or the lives of any of our other employees. We may not be able to attract and retain quality personnel on acceptable terms, or at all, which may cause our business and operating results to suffer.

Dr. Patrick Soon-Shiong, our Chairman and our principal stockholder, has significant interests in other companies which may conflict with our interests.

Our Chairman, Dr. Soon-Shiong, is the founder of NantWorks. The various NantWorks companies are currently exploring opportunities in the immunotherapy, infectious disease and inflammatory disease fields. In particular, we have agreements with a number of related parties that provide services, technology and equipment for use in our efforts to develop our product pipeline. Dr. Soon-Shiong holds a controlling interest, either directly or indirectly, in these entities. Consequently, Dr. Soon-Shiong's interests may not be aligned with our other stockholders and he may from time to time be incentivized to take certain actions that benefit his other interests and that our other stockholders do not view as being in their interest as investors in our company. In addition, other companies affiliated with Dr. Soon-Shiong may compete with us for business opportunities or, in the future, develop products that are competitive with ours (including products in other therapeutic fields which we may target in the future). Moreover, even if they do not directly relate to us, actions taken by Dr. Soon-Shiong and the companies with which he is involved could impact us.

We may also pursue supply arrangements for various investigational agents controlled by affiliates to be used in our clinical trials. If Dr. Soon-Shiong was to cease his affiliation with us, ImmunityBio, or with NantWorks, these entities may be unwilling to continue these relationships with us on commercially reasonable terms, or at all, and as a result may impede our ability to control the supply chain for our combination therapies. These supply and collaboration agreements do not typically specify how sales will be apportioned between the parties upon successful commercialization of the product. As a result, we cannot guarantee that we will receive a percentage of the revenue that is at least proportional to the costs that we will incur in commercializing the product candidate.

Furthermore, in November 2015, we entered into a Shared Services Agreement with NantWorks, pursuant to which NantWorks and/or any of its affiliates provides corporate, general and administrative, manufacturing strategy, research and development, regulatory and clinical trial strategy, and other support services to us and our subsidiaries. If Dr. Soon-Shiong was to cease his affiliation with us or with NantWorks, we may be unable to establish or maintain this relationship with NantWorks on a commercially reasonable basis, if at all. As a result, we could experience a lack of business continuity due to loss of historical and institutional knowledge and a lack of familiarity of new employees and/or new service providers with business processes, operating requirements, policies and procedures, and we may incur additional costs as new employees and/or service providers gain necessary experience, particularly in connection with issues or concerns we may have as a public company. In addition, the loss of the services of NantWorks might significantly delay or prevent the development of our products or achievement of other business objectives by diverting management's attention to transition matters and identification of suitable replacements, if any, and could have a material adverse effect on our business and results of operations.

We will need to grow the size and capabilities of our organization, and we may experience difficulties in managing this growth.

To effect our business plan, we will need to add other management, administrative, regulatory, manufacturing and scientific staff. As of September 30, 2020, we had 160 employees. We will need to attract, retain and motivate a significant number of new additional managerial, operational, sales, marketing, financial, and other personnel, as well as highly skilled scientific and medical personnel, and to expand our capabilities to successfully pursue our research, development, manufacturing and commercialization efforts and secure collaborations to market and distribute our products. This growth may strain our existing managerial, operational, financial and other resources. We also intend to add personnel in our research and development and manufacturing departments as we expand our clinical trial and research capabilities. Moreover, we may need to hire additional accounting and other personnel and augment our infrastructure as a result of operating as a public company. Any inability to attract and retain qualified employees to enable our planned growth and establish additional capabilities or our failure to manage our growth effectively could delay or curtail our product development and commercialization efforts and harm our business.

We have limited manufacturing experience and may not be able to manufacture our haNK, taNK, t-haNK or ceNK cells on a large scale or in a cost-effective manner.

haNK, taNK, t-haNK and ceNK cells have been grown in various quantities in closed cell culture systems and intermediate to larger-scale bioreactors. With all manufacturing efforts being conducted in-house, we will need to develop the ability to grow haNK, taNK, t-haNK and ceNK cells on a large-scale basis in a cost efficient manner. While we have made great strides with our haNK and t-haNK production, including a validated cryopreserved form of the product, we have not demonstrated the ability to manufacture these cells beyond quantities sufficient for our clinical programs. We have not demonstrated the ability to manufacture our taNK, t-haNK and ceNK cells beyond quantities sufficient for research and development and limited clinical activities. We have also experienced increases in manufacturing costs and sporadic decreases in manufacturing yield of haNK, taNK, t-haNK and ceNK cells. In addition, we have no experience manufacturing our NK cells specifically at the capacity that will be necessary to support commercial sales. The novel nature of our technology also increases the complexity and risk in the manufacturing process. In addition, we may encounter difficulties in obtaining the approvals for, and designing, constructing, validating and operating, any new manufacturing facility. We may also be unable to hire the qualified personnel that we will require to accommodate the expansion of our operations and manufacturing capabilities. If we relocate our manufacturing activities to a new facility during or after a pivotal clinical trial, we may be unable to obtain regulatory approval unless and until we demonstrate to the FDA's satisfaction the similarity of our haNK, taNK, t-haNK and ceNK cells manufactured in the new facility to our cells manufactured in prior facilities. If we cannot adequately demonstrate similarity to the FDA, we could be required to repeat clinical trials, which would be expensive, and would substantially delay regulatory approval.

Because our product candidates are cell-based, their manufacture is complicated. In addition, we rely on certain third party suppliers for manufacturing supplies such as X-VIVO 10 media to grow and produce our cells. Reliance on such third-party suppliers exposes us to supply interruptions and shortages that could have an adverse effect on our ability to produce product. Moreover, our present production process may not meet our initial expectations as to reproducibility, yield, purity or other measurements of performance. Any supply interruption from third parties and entities that are affiliated with Dr. Soon-Shiong and/or NantWorks could materially harm our ability to manufacture our product candidates until a new source of supply, if any, could be identified and qualified. We may be unable to find a sufficient alternative supply channel in a reasonable time or on commercially reasonable terms. In addition, we may have to customize a bioreactor system to our manufacturing process. Because our manufacturing process is unproven, we may never successfully commercialize our products. In addition, because the clinical trials were conducted using a system that will not be sufficient for commercial quantities, we may have to show comparability of the different versions of systems we have used. For these and other reasons, we may not be able to manufacture haNK, taNK, t-haNK, ceNK and MSC cells on a large scale or in a cost-effective manner.

aNK platform cells have been produced at academic institutions associated with our other clinical trial sites. In the past, the lack of production of aNK platform cells has caused delays in the commencement of our clinical trials. We have been establishing NK cell production capacity to meet anticipated demand for our planned clinical trials but may not be able to successfully build out our capacity to meet our current and anticipated future needs. Any damage to or destruction of our facility and equipment, prolonged power outage, contamination or shut down by the FDA or other regulatory authority could significantly impair or curtail our ability to produce haNK, taNK, t-haNK and ceNK cells.

We are dependent on third parties to store our aNK, haNK, taNK, t-haNK and ceNK cells, and any damage or loss to our master cell bank would cause delays in replacement, and our business could suffer.

The aNK cells of our master and working cell banks are stored in freezers at a third party biorepository and also stored in our freezers at one of our production facilities. If these cells are damaged at these facilities, including by the loss or malfunction of these freezers or back-up power systems, as well as by damage from fire, loss of power, or other natural disasters, we would need to establish replacement master and working cell banks, which would impact clinical supply and delay our patients' treatments. If we are unable to establish replacement cell banks, we could incur significant additional expenses and liability to patients whose treatment is delayed, and our business could suffer.

If we or any of our third party manufacturers that we may use do not maintain high standards of manufacturing, our ability to develop and commercialize haNK, taNK, t-haNK or ceNK cells could be delayed or curtailed.

We and any third parties that we may use in the future to manufacture our products must continuously adhere to cGMP regulations rigorously enforced by the FDA through its facilities inspection program. If our facilities or the facilities of third parties who we may use in the future to produce our products do not pass a pre-approval inspection, the FDA will not grant market approval for haNK, taNK, t-haNK or ceNK cells. In complying with cGMP, we and any third-party manufacturers must expend significant time, money and effort in production, record keeping and quality control to assure that each component of our haNK, taNK, t-haNK and ceNK cell therapies meets applicable specifications and other requirements. We or any of these third-party manufacturers may also be subject to comparable or more stringent regulations of foreign regulatory authorities. If we or any of our third-party manufacturers fail to comply with these requirements, we may be subject to regulatory action, which could delay or curtail our ability to develop, obtain regulatory approval of, and commercialize haNK, taNK, t-haNK or ceNK cells. If our component part manufacturers and suppliers fail to provide components of sufficient quality to meet our required specifications, our clinical trials or commercialization of haNK, taNK, t-haNK or ceNK cells could be delayed or halted, and we could face product liability claims.

If we or any of our third-party manufacturers that we may engage use hazardous and biological materials in a manner that causes injury or violates applicable law, we may be liable for damages.

Our research and development activities involve the controlled use of potentially hazardous substances, including chemical and biological materials, by us and any third-party manufacturers that we may use in the future. We and any of our third party manufacturers that we may engage are subject to federal, state and local laws and regulations in the U.S. governing the use, manufacture, storage, handling and disposal of medical and hazardous materials. Although we believe that our procedures for using, storing and disposing of these materials comply with legally prescribed standards, we cannot completely eliminate the risk of contamination or injury resulting from medical or hazardous materials. As a result of any such contamination or injury, we may incur liability or local, city, state or federal authorities may curtail the use of these materials and interrupt our business operations. In the event of an accident, we could be held liable for damages or penalized with fines, and the liability could exceed our resources. We do not have any insurance for liabilities arising from medical or hazardous materials. Compliance with applicable environmental laws and regulations is expensive, and current or future environmental regulations may impair our research, development and production efforts, which could harm our business, prospects, financial condition or results of operations.

We have not yet developed a validated methodology for freezing and thawing large quantities of taNK and t-haNK cells, which we believe will be required for the storage and distribution of our taNK and t-haNK product candidates.

We have not demonstrated that taNK and t-haNK cells can be frozen and thawed in large quantities without damage, in a cost-efficient manner and without degradation over time. We may encounter difficulties not only in developing freezing and thawing methodologies, but also in obtaining the necessary regulatory approvals for using such methodologies in treatment. If we cannot adequately demonstrate similarity of our frozen product to the unfrozen form to the satisfaction of the FDA, we could face substantial delays in our regulatory approvals. If we are unable to freeze taNK and t-haNK cells for shipping purposes, our ability to promote adoption and standardization of our products, as well as achieve economies of scale by centralizing our production facility, will be limited. Even if we are able to successfully freeze and thaw taNK and t-haNK cells in large quantities, we will still need to develop a cost-effective and reliable distribution and logistics network, which we may be unable to accomplish. For these and other reasons, we may not be able to commercialize haNK, taNK or t-haNK cells on a large scale or in a cost-effective manner.

We rely on third party healthcare professionals to administer haNK, taNK, t-haNK or ceNK cells to patients, and our business could be harmed if these third parties administer these cells incorrectly.

We rely on the expertise of physicians, nurses and other associated medical personnel to administer haNK, t-haNK, MSC or ceNK cells to clinical trial patients. If these medical personnel are not properly trained to administer, or do not properly administer, haNK, taNK, t-haNK, MSC or ceNK cells, the therapeutic effect of haNK, taNK, t-haNK, MSC or ceNK cells may be diminished or the patient may suffer injury.

In addition, if we achieve the ability to freeze and thaw our haNK, t-haNK, MSC and ceNK cells, third party medical personnel will have to be trained on proper methodology for thawing haNK, t-haNK, MSC and ceNK cells received from us. If this thawing is not performed correctly, the cells may become damaged and/or the patient may suffer injury. While we intend to provide training materials and other resources to these third-party medical personnel, the thawing of haNK, t-haNK, MSC or ceNK cells will occur outside our supervision and may not be administered properly. If, due to a third-party error, people believe that haNK, t-haNK, MSC or ceNK cells are ineffective or harmful, the desire to use haNK, t-haNK, MSC or ceNK cells may decline, which would negatively impact our business, reputation and prospects. We may also face significant liability even though we may not be responsible for the actions of these third parties.

Even if any of our product candidates receive regulatory approvals, they may fail to achieve the broad degree of market acceptance and use necessary for commercial success.

Any potential future commercial success of any of our product candidates will depend, among other things, on its acceptance by physicians, patients, healthcare payors, and other members of the medical community as a therapeutic and cost-effective alternative to commercially available products. Because only a few cell-based therapy products have been commercialized, we do not know to what extent cell-based immunotherapy products will be accepted as therapeutic alternatives. If we fail to gain market acceptance, we may not be able to earn sufficient revenues to continue our business. Market acceptance of, and demand for, any product that we may develop, if approved for commercial sale, will depend on many factors, including:

- our ability to provide substantial evidence of safety and efficacy;
- convenience and ease of administration;
- prevalence and severity of adverse side effects associated with our product candidates;
- availability of alternative and competing treatments;
- the cost effectiveness of any approved product and competing treatments;
- the ability to offer appropriate patient access programs, such as co-pay assistance;
- the extent to which physicians recommend our products to their patients;
- effectiveness of our marketing and distribution strategy and pricing of any product that we may develop;
- publicity concerning our products or competitive products; and
- our ability to obtain sufficient third-party coverage and adequate reimbursement.

If haNK, taNK, t-haNK and ceNK cells are approved for use, but fail to achieve the broad degree of market acceptance necessary for commercial success, our operating results and financial condition will be adversely affected. In addition, even if haNK, taNK, t-haNK and ceNK cells gain acceptance, the markets for treatment of patients with our target indications may not be as significant as we estimate.

Even if we are able to commercialize any product candidates, such products may become subject to unfavorable pricing regulations, third-party reimbursement practices or healthcare reform initiatives, which would harm our business.

The regulations that govern marketing approvals, pricing and reimbursement for new drugs vary widely from country to country. Some countries require approval of the sale price of a drug before it can be marketed. In many countries, the pricing review period begins after marketing or product licensing approval is granted. In some foreign markets, prescription pharmaceutical pricing remains subject to continuing governmental control even after initial approval is granted. As a result, we might obtain marketing approval for a product in a particular country, but then be subject to price regulations that delay the commercial launch of the product and negatively impact the revenue we are able to generate from the sale of the product in that country. Adverse pricing limitations may hinder our ability to recoup our investment in one or more product candidates, even if any product candidates we may develop obtain marketing approval.

Our ability to successfully commercialize any products that we may develop also will depend in part on the extent to which reimbursement for these products and related treatments will be available from government health administration authorities, private health insurers and other organizations. Government authorities and third-party payors, such as private health insurers and health maintenance organizations, decide which medications they will pay for and establish reimbursement levels. A primary trend in the U.S. healthcare industry and elsewhere is cost containment. Government authorities and third-party payors have attempted to control costs by limiting coverage and the amount of reimbursement for particular medications. Reimbursement may impact the demand for, or the price of, any product candidate for which we obtain marketing approval. Government authorities also impose mandatory discounts for certain patient groups and may seek to increase such discounts at any time. Future regulation may negatively impact the price of our products, if approved. It may be difficult to promptly obtain coverage and profitable payment rates from both the government-funded and private payors for any of our approved product candidates, and this may have a material adverse effect on our operating results, our ability to raise capital and our overall financial condition.

There are risks inherent in our business that may subject us to potential product liability suits and other claims, which may require us to engage in expensive and time-consuming litigation or pay substantial damages and may harm our reputation and reduce the demand for our product.

Our business exposes us to product liability risks, which are inherent in the testing, manufacturing, marketing and sale of biopharmaceutical products. We will face an even greater risk of product liability if we commercialize haNK, taNK, t-haNK and ceNK cells. For example, we may be sued if any product we develop allegedly causes or is perceived to cause injury or is found to be otherwise unsuitable during product testing, manufacturing, marketing or sale. Any such product liability claims may include allegations of defects in manufacturing, defects in design, a failure to warn of dangers inherent in the product, negligence, strict liability and a breach of warranties. Claims could also be asserted under state consumer protection acts. If we cannot successfully defend ourselves against product liability claims, we may incur substantial liabilities or be required to limit commercialization of our products. Even a successful defense would require significant financial and management resources.

Certain aspects of how haNK, taNK, t-haNK and ceNK cells are processed and administered may increase our exposure to liability. Medical personnel administer haNK, taNK, t-haNK and ceNK cells to patients intravenously in an outpatient procedure. This procedure poses risks to the patient similar to those occurring with infusions of other cell products, such as T-cells and stem cells, including blood clots, infection and mild to severe allergic reactions. Additionally, haNK, taNK, t-haNK and ceNK cells or components of our haNK, taNK, t-haNK and ceNK cell therapy may cause unforeseen harmful side effects. For example, a patient receiving haNK, taNK, t-haNK and ceNK cells could have a severe allergic reaction or could develop an autoimmune condition to materials infused with the haNK, taNK, t-haNK and ceNK cells.

In addition, we have not conducted studies on the long-term effects associated with the media that we use to grow our haNK, taNK, t-haNK and ceNK cells. Similarly, we expect to use media in freezing our haNK, taNK, t-haNK and ceNK cells for shipment. These media could contain substances that have proved harmful if used in certain quantities. As we continue to develop our haNK, taNK, t-haNK and ceNK cell therapy, we may encounter harmful side effects that we did not previously observe in our prior studies and clinical trials. Additionally, the discovery of unforeseen side effects of haNK, taNK, t-haNK and ceNK cells could also lead to lawsuits against us.

Regardless of merit or eventual outcome, product liability or other claims may, among other things, result in:

- decreased demand for any approved products;
- injury to our reputation and significant negative media attention;
- withdrawal of clinical trial participants or cancellation of clinical trials;
- costs to defend the related litigation;
- a diversion of management’s time and our resources;
- substantial monetary awards to clinical trial participants or patients;
- regulatory investigations, product recalls, withdrawals or labeling, marketing or promotional restrictions;
- exhaustion of any available insurance and our capital resources;
- loss of revenue;
- a potential decrease in our share price; and
- the inability to commercialize any products we develop.

Our inability to obtain and maintain sufficient product liability insurance at an acceptable cost and scope of coverage to protect against potential product liability claims could prevent or inhibit the commercialization of our products. We obtained product liability insurance covering our clinical trials with policy limits that we believe are customary for similarly situated companies and adequate to provide us with coverage for foreseeable risks. Although we maintain such insurance, any claim that may be brought against us could result in a court judgment or settlement in an amount that is not covered, in whole or in part, by our insurance or that is in excess of the limits of our insurance coverage. If we determine that it is prudent to increase our product liability coverage due to the commercial launch of any approved product, we may be unable to obtain such increased coverage on acceptable terms, or at all. Our insurance policies also have various exclusions and deductibles, and we may be subject to a product liability claim for which we have no coverage. We will have to pay any amounts awarded by a court or negotiated in a settlement that exceed our coverage limitations or that are not covered by our insurance, and we may not have, or be able to obtain, sufficient capital to pay such amounts. Moreover, in the future, we may not be able to maintain insurance coverage at a reasonable cost or in sufficient amounts to protect us against losses. If and when we obtain approval for marketing our product candidates, we intend to expand our insurance coverage to include the sale of the applicable products; however, we may be unable to obtain this liability insurance on commercially reasonable terms. If a successful product liability or other claim or series of claims is brought against us for uninsured liabilities or in excess of insured liabilities, our assets may not be sufficient to cover these claims and our business operations could suffer.

We currently have no marketing and sales organization and have no experience in marketing products. If we are unable to establish marketing and sales capabilities or enter into agreements with third parties to market and sell our product candidates, we may not be able to generate product revenue.

We currently have no sales, marketing or distribution capabilities and have no experience as a company in marketing products. If we develop an internal sales, marketing and distribution organization, this would require significant capital expenditures, management resources and time, and we would have to compete with other pharmaceutical and biotechnology companies to recruit, hire, train and retain marketing and sales personnel.

If we are unable or decide not to establish internal sales, marketing and distribution capabilities, we expect to pursue collaborative arrangements regarding the sales, marketing and distribution of our products. However, we may not be able to establish or maintain such collaborative arrangements, or if we are able to do so, their sales forces may not be successful in marketing our products. Any revenue we receive would depend upon the efforts of such third parties, which may not be successful. We may have little or no control over the sales, marketing and distribution efforts of such third parties and our revenue from product sales may be lower than if we had commercialized our product candidates ourselves. We also face competition in our search for third parties to assist us with the sales, marketing and distribution efforts of our product candidates. There can be no assurance that we will be able to develop internal sales, marketing and distribution capabilities or establish or maintain relationships with third-party collaborators to commercialize any product in the U.S. or overseas.

****A variety of risks associated with marketing our product candidates internationally could materially adversely affect our business.***

We plan to seek regulatory approval of our product candidates outside of the U.S. and, accordingly, we expect that we will be subject to additional risks related to operating in foreign countries if we obtain the necessary approvals, including:

- differing regulatory requirements in foreign countries;
- unexpected changes in tariffs, trade barriers, price and exchange controls and other regulatory requirements;
- economic weakness, including inflation, or political instability in particular foreign economies and markets;
- compliance with tax, employment, immigration and labor laws for employees living or traveling abroad;
- foreign taxes, including withholding of payroll taxes;
- foreign currency fluctuations, which could result in increased operating expenses and reduced revenue, and other obligations incident to doing business in another country;
- difficulties staffing and managing foreign operations;
- workforce uncertainty in countries where labor unrest is more common than in the U.S.;
- differing payor reimbursement regimes, governmental payors or patient self-pay systems, and price controls;
- potential liability under the Foreign Corrupt Practices Act of 1977 or comparable foreign regulations;
- challenges enforcing our contractual and intellectual property rights, especially in those foreign countries that do not respect and protect intellectual property rights to the same extent as the U.S.;
- production shortages resulting from any events affecting raw material supply or manufacturing capabilities abroad;

- the impact of public health epidemics on the global economy, such as the coronavirus pandemic currently having an impact throughout the world; and
- business interruptions resulting from geo-political actions, including war and terrorism.

These and other risks associated with international operations may materially adversely affect our ability to attain or maintain profitable operations.

We have formed, and may in the future form or seek, strategic alliances or enter into additional licensing arrangements in the future, and we may not realize the benefits of such alliances or licensing arrangements.

We have formed, and may in the future form or seek, strategic alliances, create joint ventures or collaborations or enter into additional licensing arrangements with third and related parties that we believe will complement or augment our development and commercialization efforts with respect to our product candidates and any future product candidates that we may develop. For example, during the third quarter of 2020, we entered into a Joint COVID-19 Collaboration Agreement with ImmunityBio, a related party, as further described above. In addition, we entered into an agreement whereby Viracta granted to us exclusive world-wide rights to Viracta's phase II drug candidate, VRx-3996, for use in combination with our platform of NK cell therapies. However, if Viracta fails to raise sufficient capital to complete their pivotal phase II trial, if their trial is unsuccessful, or if our future clinical trial of NK cell therapy in combination with VRx-3996 fails, the value of the Viracta license would be adversely affected.

Any of these relationships may require us to incur non-recurring and other charges, increase our near and long-term expenditures, issue securities that dilute our existing stockholders or disrupt our management and business. In addition, we face significant competition in seeking appropriate strategic partners and the negotiation process is time-consuming and complex. Moreover, we may not be successful in our efforts to establish a strategic partnership or other alternative arrangements for our product candidates because they may be deemed to be at too early of a stage of development for collaborative effort and third parties may not view our product candidates as having the requisite potential to demonstrate safety and efficacy. If we license products or acquire businesses, we may not be able to realize the benefit of such transactions if we are unable to successfully integrate them with our existing operations and company culture. We cannot be certain that, following a strategic transaction or license, we will achieve the revenue or specific net income that justifies such transaction. Any delays in entering into new strategic partnership agreements related to our product candidates could delay the development and commercialization of our product candidates in certain geographies for certain indications, which would harm our business prospects, financial condition and results of operations.

Our internal computer systems, or those used by our contractors or consultants, may fail or suffer security breaches.

Our business model involves the storage and transmission of clinical trial and other data on our systems and on the systems of our consultants and contractors, and security breaches expose us to a risk of loss of this information, governmental fines and penalties, litigation and/or potential liability, in addition to negative publicity. Despite the implementation of security measures, our internal computer systems and those of our contractors and consultants are vulnerable to damage from computer viruses and unauthorized access. Our security measures and those of our contractors and consultants may also be breached due to employee error, malfeasance or otherwise. If such an event were to occur and cause interruptions in our operations, it could result in a material disruption of our development programs and our business operations. For example, the loss of clinical trial data from completed, ongoing or future clinical trials could result in delays in our regulatory approval efforts and significantly increase our costs to recover or reproduce the data. Likewise, we rely on affiliated entities and third parties for research and development of our product candidates and to conduct clinical trials and may rely on third parties for the manufacture of our product candidates and similar events relating to their computer systems could have a material adverse effect on our business.

We expect that these risks and exposures related to our internal computer systems will remain high for the foreseeable future due to the rapidly evolving nature and sophistication of cyber threats to our internal computer systems. Moreover, as the use of technology has become more prevalent in the course of business as a result of COVID-19, we may become more susceptible to operational, financial and information security risks resulting from cyber-attacks and/or technological malfunctions. There can be no assurance that our efforts to implement adequate security measures will remain sufficient to protect the company against future cyber-attacks. To the extent that any disruption or security breach were to result in a loss of, or damage to, our data or applications, or inappropriate disclosure of confidential or proprietary information, we could incur liability, suffer damage to our reputation, the further development and commercialization of our product candidates could be delayed, and our stock price could decline.

Future acquisitions and investments could disrupt our business and harm our financial condition and operating results.

Our success may depend, in part, on our ability to expand our products and services. In some circumstances, we may determine to do so through the acquisition of complementary businesses and technologies rather than through, or in conjunction with, internal development. The identification of suitable acquisition candidates can be difficult, time-consuming and costly, and we may not be able to successfully complete identified acquisitions. The risks we face in connection with acquisitions include:

- diversion of management time and focus from operating our business to addressing acquisition integration challenges;
- retention of key employees from the acquired company;
- coordination of research and development functions;
- integration of the acquired company's accounting, management information, human resources and other administrative systems;
- liability for activities of the acquired company before the acquisition, including intellectual property infringement claims, employee disputes, and alleged violations of laws; and
- unanticipated write-offs or charges.

Our failure to address these risks or other problems encountered in connection with our past or future acquisitions and investments could cause us to fail to realize the anticipated benefits of these acquisitions or investments, cause us to incur unanticipated liabilities, and harm our business generally. Future acquisitions could also result in dilutive issuances of our equity securities, the incurrence of debt, contingent liabilities, amortization expenses, incremental operating expenses or the write-off of goodwill, any of which could harm our financial condition or operating results.

****Business disruptions could seriously harm our future revenue and financial condition and increase our costs and expenses.***

Our operations, and those of our contractors and consultants, could be subject to earthquakes, power shortages, telecommunications failures, water shortages, floods, hurricanes, typhoons, fires, extreme weather conditions, medical epidemics and pandemics, acts of terrorism, acts of war and other natural or man-made disasters or business interruptions, for which we are predominantly self-insured. The occurrence of any of these business disruptions could seriously harm our operations and financial condition and increase our costs and expenses. We may rely on third-party manufacturers to produce and process our product candidates. Our ability to obtain clinical supplies of our product candidates could be disrupted if the operations of these suppliers are affected by a man-made or natural disaster, pandemics, epidemics, or other business interruption, including the continuing coronavirus pandemic. The extent to which coronavirus pandemic impacts our business will depend on future developments, which are highly uncertain and cannot be predicted, including new information which may emerge concerning the severity of COVID-19 and the actions to contain SARS-CoV-2 or treat its impact, among others. If any disaster were to occur, our ability to operate our clinical trials could be seriously, or potentially completely, impaired. Our corporate headquarters are in California near major earthquake faults and fire zones. Our operations and financial condition could suffer in the event of a major earthquake, fire or other natural disaster.

****A coronavirus pandemic is ongoing in many parts of the world and may result in significant disruptions to our clinical trials, preclinical studies and supply chain which could have a material adverse effect on our business.***

A coronavirus pandemic exists as of the filing of this report. As the pandemic continues to evolve, much of its impact remains unknown, and it is impossible to predict the impact it may have on the development of our business.

The coronavirus pandemic may result in significant delays or disruptions in our clinical trials, which could affect or delay the regulatory approval process of our product candidates. If the patients involved with these clinical trials become infected with the coronavirus disease, we may have more adverse events and deaths in our clinical trials as a result. We may also face difficulties enrolling patients in our clinical trials if the patient populations that are eligible for our clinical trials are impacted by the coronavirus pandemic.

Additionally, if our clinical trial patients are unable to travel to our clinical trial sites as a result of quarantines or other restrictions resulting from the coronavirus pandemic, we may experience higher drop-out rates or delays in our clinical trials.

The severity of the coronavirus pandemic could also make access to our existing supply chain difficult or impossible by delaying the delivery of key raw materials used in our product candidates and therefore delay the delivery of such products for use in our clinical trials. Any of these results could have a material adverse effect on our business.

Our manufacturing facilities may be negatively impacted by the ongoing coronavirus pandemic.

The coronavirus pandemic, including any actions we have taken in response, may disrupt our internal operations, including by heightening the risk that a significant portion of our workforce could suffer illness or otherwise not be permitted or be unable to work, and required that certain of our employees work remotely, which has heightened certain risks, including those related to cybersecurity and internal controls. Additionally the coronavirus pandemic has impacted, and may continue to impact, our office and manufacturing locations, as well as our analytical, process development, and transitional research teams, including through the effects of facility closures, reductions in operating hours and other social distancing efforts. For example, if even a small number of our employees in our working clusters related to manufacturing, analytical, process development, or translational research, tested positive for COVID-19, it would require us to temporarily close a number of our offices or manufacturing facilities and temporarily suspend operations in order to conduct a deep clean of the facilities in order to ensure the safety of our employees. Additionally, we cannot predict whether these conditions and concerns will continue or whether we will experience more significant or frequent disruptions in the future, including the complete closure of one or more of our facilities. In addition, in the event demand for our products is significantly reduced as a result of the coronavirus pandemic and related economic impacts, we may need to assess different corporate actions and cost-cutting measures, including reducing our workforce or closing one or more facilities, and these actions could cause us to incur costs and expose us to other risks and inefficiencies, including whether we would be able to rehire our workforce or recommence operations at a given facility if our business experiences a subsequent recovery.

Our employees, affiliates, independent contractors, clinical investigators, CROs, data safety and monitoring boards, consultants, commercial partners and vendors may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements, and insider trading.

We are exposed to the risk of employee fraud, misconduct or other illegal activity by our employees, affiliates, independent contractors, clinical investigators, CROs, data safety and monitoring boards, consultants, commercial partners and vendors. Misconduct by these parties could include intentional, reckless or negligent conduct that fails to:

- comply with the laws and requirements of the FDA and other similar foreign regulatory bodies;
- provide true, complete and accurate information to the FDA and other similar foreign regulatory bodies;
- comply with manufacturing standards we have established;
- comply with healthcare fraud and abuse, privacy and security and other laws in the U.S. and similar foreign fraudulent misconduct laws;
- comply with federal securities laws regulating insider trading; or
- report financial information or data accurately or to disclose unauthorized activities to us.

Our current and future business operations may subject us to fraud and abuse, transparency, health information privacy and security, and other healthcare laws and regulations. Failure to comply with such laws and regulations may result in substantial penalties.

Our current and future business operations may subject us to fraud and abuse, transparency, health information privacy and security, and other healthcare laws and regulations. If we obtain FDA approval of any of our product candidates and begin commercializing those products in the U.S., our potential exposure under such laws will increase significantly, and our costs associated with compliance with such laws are also likely to increase. These laws may impact, among other things, our current activities with principal investigators and research patients, as well as proposed and future sales, marketing and education programs. In particular, the promotion, sales and marketing of healthcare items and services, as well as certain business arrangements in the healthcare industry, are subject to extensive laws designed to prevent fraud, kickbacks, self-dealing and other abusive practices. These laws and regulations may restrict or prohibit a wide range of pricing, discounting, marketing and promotion, structuring and commission(s), certain customer incentive programs and other business arrangements generally. Activities subject to these laws also include the collection and/or use of information obtained in the course of patient recruitment for clinical trials. The healthcare laws that may affect our ability to operate include, but are not limited to:

- the federal Anti-Kickback Statute, which prohibits, among other things, knowingly and willfully soliciting, receiving, offering or providing any remuneration (including any kickback, bribe, or rebate), directly or indirectly, overtly or covertly, in cash or in kind, to induce or reward, or in return for, either the referral of an individual, or the purchase, lease, order or recommendation of any good, facility, item or service for which payment may be made, in whole or in part, under a federal healthcare program, such as the Medicare and Medicaid programs;

- federal civil and criminal false claims laws, including the civil False Claims Act, and civil monetary penalty laws, which impose criminal and civil penalties against individuals or entities for, among other things, knowingly presenting, or causing to be presented, claims for payment or approval from the federal government including Medicare and Medicaid, that are false or fraudulent or knowingly making a false statement to improperly avoid, decrease or conceal an obligation to pay money to the federal government;
- the U.S. federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, which created additional U.S. federal criminal statutes that prohibit, among other actions, knowingly and willfully executing, or attempting to execute, a scheme to defraud any healthcare benefit program or obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any healthcare benefit program, regardless of the payor (e.g., public or private), and knowingly and willfully falsifying, concealing or covering up by any trick or device a material fact or making any materially false statements in connection with the delivery of, or payment for, healthcare benefits, items or services relating to healthcare matters;
- HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009, or HITECH, and their respective implementing regulations, which impose requirements, including mandatory contractual terms, on certain covered healthcare providers, health plans, and healthcare clearinghouses, as well as their respective business associates that perform services for them that involve the use, or disclosure of, individually identifiable health information, relating to the privacy, security and transmission of individually identifiable health information;
- the U.S. federal Physician Payments Sunshine Act, created under the Patient Protection and Affordable Care Act, as amended by the Health Care Education Reconciliation Act, which we refer to collectively as ACA, and its implementing regulations, which require certain manufacturers of drugs, devices, biologicals and medical supplies for which payment is available under Medicare, Medicaid or the Children's Health Insurance Program (with certain exceptions) to report annually to the U.S. Department of Health and Human Services, or HHS, information related to payments or other transfers of value made to physicians (currently defined to include doctors, dentists, optometrists, podiatrists and chiropractors) and teaching hospitals, as well as ownership and investment interests held by physicians and their immediate family members by the 90th day of each subsequent calendar year, and disclosure of such information will be made by HHS on a publicly available website; and
- federal consumer protection and unfair competition laws, which broadly regulate marketplace activities and activities that potentially harm consumers.

Additionally, we are subject to state and foreign laws and regulations that are analogous to the healthcare laws and regulations described above, among others, some of which may be broader in scope and may apply regardless of the payor. Some state laws require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and relevant compliance guidance promulgated by the federal government; some state laws require drug manufacturers to report information related to payments and other transfers of value to physicians and other healthcare providers or marketing expenditures; some state and local laws that require the registration of pharmaceutical sales representatives; and some state and foreign laws govern the privacy and security of health information in ways that differ, and in certain cases are more stringent than, HIPAA, thus complicating compliance efforts.

We have adopted a code of business conduct and ethics, but it is not always possible to identify and deter employee misconduct, and the precautions we take to detect and prevent inappropriate conduct may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with such laws or regulations. Efforts to ensure that our business arrangements will comply with applicable healthcare laws may involve substantial costs. It is possible that governmental and enforcement authorities will conclude that our business practices do not comply with current or future statutes, regulations or case law interpreting applicable fraud and abuse or other healthcare laws and regulations. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business, including the imposition of civil, criminal and/or administrative penalties, damages, disgorgement, monetary fines, possible exclusion from participation in Medicare, Medicaid and other federal healthcare programs, contractual damages, reputational harm, diminished profits and future earnings, and curtailment of our operations, any of which could adversely affect our ability to operate our business and our results of operations. Defending against any such actions can be costly, time-consuming, and may require significant financial and personnel resources. Therefore, even if we are successful in defending against any such actions that may be brought against us, our business may be impaired.

Competing generic medicinal products or biosimilars may be approved.

In the European Union, or E.U., there exists a process for approval of generic biological medicinal products once patent protection and other forms of data and market exclusivity have expired. Arrangements for approval of biosimilar products exist in the U.S., as well. Other jurisdictions are considering adopting legislation that would allow the approval of generic biological medicinal products. If generic medicinal products are approved, competition from such products may substantially reduce sales of our products.

Public opinion and scrutiny of cell-based immunotherapy approaches may impact public perception of our company and product candidates, or may adversely affect our ability to conduct our business and our business plans.

Our platform utilizes a relatively novel technology involving the genetic modification of human cells and utilization of those modified cells in other individuals, and no natural killer cell-based immunotherapy has been approved to date. Public perception may be influenced by claims, such as claims that cell-based immunotherapy is unsafe, unethical, or immoral and, consequently, our approach may not gain the acceptance of the public or the medical community. Negative public reaction to cell-based immunotherapy in general could result in greater government regulation and stricter labeling requirements of cell-based immunotherapy products, including any of our product candidates, and could cause a decrease in the demand for any products we may develop. Adverse public attitudes may adversely impact our ability to enroll clinical trials. Moreover, our success will depend upon physicians specializing in the treatment of those diseases that our product candidates target prescribing, and their patients being willing to receive, treatments that involve the use of our product candidates in lieu of, or in addition to, existing treatments they are already familiar with and for which greater clinical data may be available. More restrictive government regulations or negative public opinion could have an adverse effect on our business or financial condition and may delay or impair the development and commercialization of our product candidates or demand for any products we may develop. Adverse events in our clinical trials, even if not ultimately attributable to our product candidates, and the resulting publicity could result in increased governmental regulation, unfavorable public perception, potential regulatory delays in the testing or approval of our potential product candidates, stricter labeling requirements for those product candidates that are approved and a decrease in demand for any such product candidates.

Risks Relating to Government Regulation

****We may fail to obtain or may experience delays in obtaining regulatory approval to market our aNK platform product candidates, which will significantly harm our business.***

We do not have the necessary approval to market or sell aNK platform products in the U.S. or any foreign market. Before marketing aNK platform product candidates, we must successfully complete extensive preclinical studies and clinical trials and rigorous regulatory approval procedures. We cannot offer assurances that we will apply for or obtain the necessary regulatory approval to commercialize aNK platform product candidates in a timely manner, or at all.

Conducting clinical trials is uncertain and expensive and often takes many years to complete. The results from preclinical testing and early clinical trials are often not predictive of results obtained in later clinical trials. In conducting clinical trials, we may fail to establish the effectiveness of haNK, t-haNK, MSC and ceNK cells for the targeted indication or we may discover unforeseen side effects. Moreover, clinical trials may require the enrollment of large numbers of patients, and suitable patients may be difficult to identify and recruit. Clinical trials are also often subject to unanticipated delays. In addition, haNK, t-haNK, MSC and ceNK cells are produced in small-scale cell culture systems and we may be unable to adapt the production method to large-scale production systems. In addition, patients participating in the trials may die before completion of the clinical trial or suffer adverse medical effects unrelated to treatment with haNK, t-haNK, MSC and ceNK cells. This could delay or lead to termination of our clinical trials. A number of companies in the biotechnology industry have suffered significant setbacks in every stage of clinical trials, even in advanced clinical trials after positive results in earlier clinical trials.

To date, the FDA has approved only a few cell-based therapies for commercialization. The processes and requirements imposed by the FDA may cause delays and additional costs in obtaining regulatory approvals for our product candidates. Because our aNK platform product is novel, and cell-based therapies are relatively new, regulatory agencies may lack experience in evaluating product candidates like our aNK platform products. This inexperience may lengthen the regulatory review process, increase our development costs and delay or prevent commercialization of our aNK platform products. In addition, the following factors may impede or delay our ability to obtain timely regulatory approvals, if at all:

- potential delays in or failure to reach agreement on acceptable terms with prospective CROs and clinical sites, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and trial sites;
- our failure to obtain sufficient enrollment in our clinical trials or participants may fail to complete our clinical trials;

- clinical trials of our product candidates may produce negative or inconclusive results, and we may decide, or regulators may require us, to conduct additional clinical trials or abandon product development programs;
- regulators may require us to perform additional or unanticipated clinical trials to obtain approval or we may be subject to additional post-marketing testing requirements to maintain regulatory approval;
- regulators may revise the requirements for approving our product candidates, or such requirements may not be as we anticipate;
- the cost of clinical trials of our product candidates may be greater than we anticipate, and we may need to delay or suspend one or more trials until we complete additional financing transactions or otherwise receive adequate funding;
- the supply or quality of our product candidates or other materials necessary to conduct clinical trials of our product candidates may be insufficient or inadequate or may be delayed;
- our product candidates may have undesirable side effects or other unexpected characteristics, causing us or our investigators, regulators or institutional review boards to suspend or terminate trials;
- regulatory authorities may suspend or withdraw their approval of a product or impose restrictions on its distribution;
- our limited experience in filing and pursuing Biologics License Applications, or BLAs, necessary to gain regulatory approvals related to genetically modified cancer cell line therapies;
- any failure to develop substantial evidence of clinical efficacy and safety, and to develop quality standards and manufacturing processes to demonstrate consistent safety, purity, identity, and potency standards;
- a decision by us, institutional review boards, or regulators to suspend or terminate our clinical trials for various reasons, including noncompliance with regulatory requirements or a finding that the participants are being exposed to unacceptable health risks;
- regulatory inspections of our clinical trials, clinical trial sites or manufacturing facilities, which may, among other things, require us to undertake corrective action or suspend or terminate our clinical trials if regulators find us not to be in compliance with applicable regulatory requirements;
- our ability to produce sufficient quantities of haNK, taNK, t-haNK and ceNK cells to complete our clinical trials;
- varying interpretations of the data generated from our clinical trials;
- timely coordination with our related party, ImmunityBio, in connection with the filing of our BLA as a combined therapy;
- the ability of our related party, ImmunityBio, being commercially ready with a fully completed CMC package, and compliant with cGMP, for the manufacture of N-803 and aldoxorubicin; and
- changes in governmental regulations or administrative action.

Any delays in, or termination of, our clinical trials could materially and adversely affect our development and collaboration timelines, which may cause our stock price to decline. If we do not complete clinical trials for haNK, taNK, t-haNK and ceNK cells and seek and obtain regulatory approvals, we may not be able to recover any of the substantial costs we have invested in the development of haNK, taNK, t-haNK and ceNK cells.

Even if we obtain regulatory approvals for aNK related platform products, those approvals and ongoing regulation of our products may limit how we manufacture and market our products, which could prevent us from realizing the full benefit of our efforts.

If we obtain regulatory approvals, our aNK platform products, and our manufacturing facilities will be subject to continual regulatory review, including periodic unannounced inspections, by the FDA and other U.S. and foreign regulatory authorities. In addition, regulatory authorities may impose significant restrictions on the indicated uses or impose ongoing requirements for potentially costly post-approval studies. aNK platform product candidates would also be subject to ongoing FDA requirements governing the labeling, packaging, storage, advertising, promotion, recordkeeping and submission of safety and other post-market information. These and other factors may significantly restrict our ability to successfully commercialize haNK, taNK, t-haNK and ceNK cell therapies.

Manufacturers of biopharmaceutical products and their facilities, vendors and suppliers are subject to continual review and periodic unannounced inspections by the FDA and other regulatory authorities for compliance with cGMP regulations, which include requirements relating to quality control and quality assurance, as well as to the corresponding maintenance of records and documentation. Furthermore, our manufacturing facilities must be approved by regulatory agencies before these facilities can be used to manufacture aNK platform products, and they will also be subject to additional regulatory inspections. Any material changes we may make to our manufacturing process or to the components used in our products may require additional prior approval by the FDA and state or foreign regulatory authorities. Failure to comply with FDA or other applicable regulatory requirements may result in criminal prosecution, civil penalties, recall or seizure of products, partial or total suspension of production or withdrawal of a product from the market.

We must also report adverse events that occur when our products are used. The discovery of previously unknown problems with aNK, haNK, taNK, t-haNK and ceNK cells and therapies or our manufacturing facilities may result in restrictions or sanctions on our products or manufacturing facilities, including withdrawal of our products from the market or suspension of manufacturing. Regulatory agencies may also require us to reformulate our products, conduct additional clinical trials, make changes in the labeling of our product or obtain further approvals. This may harm our business and results of operations or cause our reputation in the market place to suffer or subject us to lawsuits, including class action suits.

Additionally, if one or more of our product candidates receives marketing approval, and we or others later identify undesirable side effects or adverse events caused by such products, a number of potentially significant negative consequences could result, including but not limited to:

- regulatory authorities may withdraw approvals of such product or require additional warnings on the label;
- we may be required to change the way the product is administered or conduct additional clinical trials or post-approval studies;
- we may be required to create a Risk Evaluation and Mitigation Strategy, or REMS, plan, which could include a medication guide outlining the risks of such side effects for distribution to patients, a communication plan for healthcare providers, or other elements to assure safe use;
- we could be sued and held liable for harm caused to patients; and
- our reputation may suffer.

Any of these events could prevent us from achieving or maintaining market acceptance of the particular product candidate, if approved, and could significantly harm our business, results of operations, and prospects.

In addition, if we, our product candidates or the manufacturing facilities for our product candidates fail to comply with applicable regulatory requirements, a regulatory agency may:

- issue warning letters that can produce adverse publicity;
- impose civil or criminal penalties;
- suspend regulatory approval;
- suspend any ongoing clinical trials;
- refuse to approve pending applications or supplements to applications filed by us;
- impose restrictions on operations, including costly new manufacturing requirements;
- seize or detain products or request us to initiate a product recall; or
- pursue and obtain an injunction.

Obtaining and maintaining regulatory approval of our product candidates in one jurisdiction does not mean that we will be successful in obtaining regulatory approval of our product candidates in other jurisdictions.

Obtaining and maintaining regulatory approval of our product candidates in one jurisdiction does not guarantee that we will be able to obtain or maintain regulatory approval in any other jurisdiction, while a failure or delay in obtaining regulatory approval in one jurisdiction may have a negative effect on the regulatory approval process in others. For example, even if the FDA grants marketing approval of a product candidate, comparable regulatory authorities in foreign jurisdictions must also approve the product, manufacturing, and in many cases reimbursement of the product candidate in those countries. Approval procedures vary among jurisdictions and can involve requirements and administrative review periods different from, and greater than, those in the U.S., including additional preclinical studies or clinical trials as clinical studies conducted in one jurisdiction may not be accepted by regulatory authorities in other jurisdictions. In some cases, the price that we intend to charge for our products is also subject to approval by regulatory authorities.

We may also submit marketing applications in other countries. Regulatory authorities in jurisdictions outside of the U.S. have requirements for approval of product candidates with which we must comply prior to marketing in those jurisdictions. Obtaining foreign regulatory approvals and compliance with foreign regulatory requirements could result in significant delays, difficulties and costs for us and could delay or prevent the introduction of our products in certain countries. If we fail to comply with the regulatory requirements in international markets and/or receive applicable marketing approvals, our target market will be reduced and our ability to realize the full market potential of our product candidates will be harmed.

We may seek orphan drug status or breakthrough therapy designation for one or more of our product candidates, but even if either is granted, we may be unable to maintain any benefits associated with breakthrough therapy designation or orphan drug status, including market exclusivity.

Under the Orphan Drug Act, the FDA may grant orphan designation to a drug or biologic intended to treat a rare disease or condition or for which there is no reasonable expectation that the cost of developing and making available in the U.S. a drug or biologic for a disease or condition will be recovered from sales in the U.S. for that drug or biologic. If a product that has orphan drug designation subsequently receives the first FDA approval for the disease for which it has such designation, the product is entitled to orphan product exclusivity, which means that the FDA may not approve any other applications, including a full BLA to market the same drug or biologic for the same indication for seven years, except in limited circumstances, such as a showing of clinical superiority to the product with orphan drug exclusivity. In 2012, the FDA established a Breakthrough Therapy Designation, which is intended to expedite the development and review of products that treat serious or life-threatening conditions.

We may seek orphan drug status for one or more of our product candidates, but exclusive marketing rights in the U.S. may be lost if we seek approval for an indication broader than the orphan designated indication and may be lost if the FDA later determines that the request for designation was materially defective or if we are unable to assure sufficient quantities of the product to meet the needs of patients with the rare disease or condition. In addition, we may seek breakthrough therapy designation for one or more of our product candidates, but there can be no assurance that we will receive such designation.

We will need to obtain FDA approval of any proposed product brand names, and any failure or delay associated with such approval may adversely impact our business.

A biopharmaceutical product cannot be marketed in the U.S. or other countries until we have completed rigorous and extensive regulatory review processes, including review and approval of a brand name. Any brand names we intend to use for our product candidates will require approval from the FDA regardless of whether we have secured a formal trademark registration from the U.S. Patent and Trademark Office, or the USPTO. The FDA may object to a product brand name if they believe the name creates potential for confusion or inappropriately implies medical claims. If the FDA objects to any of our proposed product brand names, we may be required to adopt an alternative brand name for our product candidates. If we adopt an alternative brand name, we would lose the benefit of our existing trademark applications for such product candidate and may be required to expend significant additional resources in an effort to identify a suitable product brand name that would qualify under applicable trademark laws, not infringe the existing rights of third parties and be acceptable to the FDA. We may be unable to build a successful brand identity for a new trademark in a timely manner or at all, which would limit our ability to commercialize our product candidates.

Coverage and reimbursement decisions by third-party payors may have an adverse effect on pricing and market acceptance.

There is significant uncertainty related to the third-party coverage and reimbursement of newly approved drugs. Patients who are provided medical treatment for their conditions generally rely on third-party payors to reimburse all or part of the costs associated with their treatment. Therefore, market acceptance and sales of our products, if approved, in both domestic and international markets will depend significantly on the availability of adequate coverage and reimbursement from third party and/or government payors for any of our products and may be affected by existing and future healthcare reform measures. Government authorities and third-party payors, such as private health insurers and health maintenance organizations, decide which drugs they will cover and establish approved lists, known as formularies, and establish payment levels for such drugs. Formularies may not include all FDA-approved drugs for a particular indication. Private payors often follow Medicare coverage policy and payment limitations in setting their own payment rates. Any reduction in payment under Medicare Part D may result in a similar reduction in payments from non-governmental payors. We cannot be certain that coverage and adequate reimbursement will be available for any of our products, if approved, or that such coverage and reimbursement will be authorized in a timely fashion. In addition, we cannot be certain that reimbursement policies will not reduce the demand for, or the price paid for, any of our products, if approved. If reimbursement is not available or is available on a limited basis for any of our products, if approved, we may not be able to successfully commercialize any such products.

Reimbursement by a third party or government payor may depend upon a number of factors, including, without limitation, the third-party or government payor's determination that use of a product is:

- a covered benefit under its health plan;
- safe, effective and medically necessary;
- appropriate for the specific patient;
- cost-effective; and
- neither experimental nor investigational.

Obtaining coverage and reimbursement approval for a product from a government or other third-party payor is a time consuming and costly process that could require us to provide supporting scientific, clinical and cost-effectiveness data for the use of our products to the payor. We may not be able to provide data sufficient to gain acceptance with respect to coverage and reimbursement or to have pricing set at a satisfactory level. If reimbursement of our products, if any, is unavailable or limited in scope or amount, or if pricing is set at unsatisfactory levels such as may result where alternative or generic treatments are available, we may be unable to achieve or sustain profitability.

Assuming we obtain coverage for a given product, the resulting reimbursement payment rates might not be adequate or may require co-payments that patients find unacceptably high. Patients are unlikely to use our products unless coverage is provided and reimbursement is adequate to cover a significant portion of the cost of our products.

In the U.S., third-party payors include federal and state healthcare programs, government authorities, private managed care providers, private health insurers, and other organizations. No uniform policy of coverage and reimbursement for products exists among third-party payors, and third-party payors are increasingly challenging the price, examining the medical necessity, and reviewing the cost-effectiveness of medical drug products and medical services, in addition to questioning their safety and efficacy. Therefore, coverage and reimbursement for products can differ significantly from payor to payor. As a result, the coverage determination process is often a time-consuming and costly process that will require us to provide scientific and clinical support for the use of our products to each payor separately, with no assurance that coverage and adequate reimbursement will be obtained. We or our collaborators may need to conduct expensive pharmaco-economic studies in order to demonstrate the medical necessity and cost-effectiveness of our products, in addition to the costs required to obtain the FDA approvals.

In some foreign countries, particularly in Europe, the pricing of prescription pharmaceuticals is subject to governmental control. In these countries, pricing negotiations with governmental authorities can take considerable time after the receipt of marketing approval for a product. To obtain reimbursement or pricing approval in some countries, we may be required to conduct additional clinical trials that compare the cost-effectiveness of our products to other available therapies. If reimbursement of any of our products, if approved, is unavailable or limited in scope or amount in a particular country, or if pricing is set at unsatisfactory levels, we may be unable to achieve or sustain profitability of our products in such country.

Recent legislative and regulatory activity may exert downward pressure on potential pricing and reimbursement for our products, if approved, that could materially affect the opportunity to commercialize.

The U.S. and several other jurisdictions are considering, or have already enacted, a number of legislative and regulatory proposals to change the healthcare system in ways that could affect our ability to sell any of our products profitably, if approved. Among policy-makers and payors in the U.S. and elsewhere, there is significant interest in promoting changes in healthcare systems with the stated goals of containing healthcare costs, improving quality and/or expanding access to healthcare. In the U.S., the pharmaceutical industry has been a particular focus of these efforts and has been significantly affected by major legislative initiatives. There have been, and likely will continue to be, legislative and regulatory proposals at the federal and state levels directed at broadening the availability of healthcare and containing or lowering the cost of healthcare. We cannot predict the initiatives that may be adopted in the future. The continuing efforts of the government, insurance companies, managed care organizations and other payors of healthcare services to contain or reduce costs of healthcare may adversely affect:

- the demand for any of our products, if approved;
- our ability to set a price that we believe is fair for any of our products, if approved;
- our ability to generate revenues and achieve or maintain profitability;
- the level of taxes that we are required to pay; and
- the availability of capital.

In March 2010, ACA became law in the U.S. The goal of ACA is to reduce the cost of healthcare, broaden access to health insurance, constrain healthcare spending, enhance remedies against fraud and abuse, add transparency requirements for the healthcare and health insurance industries, impose taxes and fees on the health industry, impose additional health policy reforms, and substantially change the way healthcare is financed by both governmental and private insurers. While we cannot predict what impact on federal reimbursement policies this legislation will have in general or on our business specifically, ACA may result in downward pressure on pharmaceutical reimbursement, which could negatively affect market acceptance of any of our products, if they are approved. Provisions of ACA relevant to the pharmaceutical industry include the following:

- an annual, nondeductible fee on any entity that manufactures or imports certain branded prescription drugs and biologic agents, apportioned among these entities according to their market share in certain government healthcare programs, not including orphan drug sales;
- an increase in the statutory minimum rebates a manufacturer must pay under the Medicaid Drug Rebate Program to 23.1% and 13% of the average manufacturer price for most branded and generic drugs, respectively;
- a new Medicare Part D coverage gap discount program, in which manufacturers must now agree to offer 70% point-of-sale discounts on negotiated prices of applicable brand drugs to eligible beneficiaries during their coverage gap period, as a condition for the manufacturer's outpatient drugs to be covered under Medicare Part D;
- extension of manufacturers' Medicaid rebate liability to covered drugs dispensed to individuals who are enrolled in Medicaid managed care organizations;
- expansion of eligibility criteria for Medicaid programs by, among other things, allowing states to offer Medicaid coverage to additional individuals and by adding new mandatory eligibility categories for certain individuals with income at or below 133% of the Federal Poverty Level, thereby potentially increasing manufacturers' Medicaid rebate liability;
- expansion of the entities eligible for discounts under the Public Health Service pharmaceutical pricing program;
- new requirements for certain manufacturers of drugs, devices, biologics, and medical supplies for which payment is available under Medicare, Medicaid, or the Children's Health Insurance Program, with specific exceptions to report annually certain financial arrangements with physicians, as defined by such law, and teaching hospitals, as defined in ACA and its implementing regulations, including reporting any payment or "transfer of value" provided to physicians and teaching hospitals and any ownership and investment interests held by physicians and their immediate family members during the preceding calendar year;
- expansion of healthcare fraud and abuse laws, including the U.S. federal False Claims Act and the U.S. federal Anti-Kickback Statute, new government investigative powers and enhanced penalties for noncompliance;
- a new Patient-Centered Outcomes Research Institute to oversee, identify priorities in and conduct comparative clinical effectiveness research, along with funding for such research; and
- a new methodology by which rebates owed by manufacturers under the Medicaid Drug Rebate Program are calculated for drugs that are inhaled, infused, instilled, implanted, or injected.

The ACA has been modified and amended recently, including the elimination of the individual mandate that individuals purchase healthcare insurance. Furthermore, the current presidential administration and Congress may continue to attempt broad sweeping changes to the current health care laws. We face uncertainties that might result from modification or repeal of any of the provisions of the ACA, including as a result of current and future executive orders, legislative actions, and litigation, including the pending review by the U.S. Supreme Court of the constitutionality of the ACA. The impact of those changes on us and potential effect on the pharmaceutical and biotechnology industry as a whole is currently unknown. However, any changes to the ACA are likely to have an impact on our results of operations, and may have a material adverse effect on our results of operations. We cannot predict what other healthcare programs and regulations will ultimately be implemented at the federal or state level or the effect of any future legislation or regulation in the U.S. may have on our business.

We are subject to governmental export and import controls that could impair our ability to compete in international markets due to licensing requirements and subject us to liability if we are not in compliance with applicable laws. Compliance with these legal requirements could limit our ability to compete in foreign markets and subject us to liability if we violate them.

Our products and solutions are subject to export control and import laws and regulations, including the U.S. Export Administration Regulations, U.S. Customs regulations, and various economic and trade sanctions regulations administered by the U.S. Treasury Department's Office of Foreign Assets Controls. Exports of our products and solutions outside of the U.S. must be made in compliance with these laws and regulations. If we fail to comply with these laws and regulations, we and certain of our employees could be subject to substantial civil or criminal penalties, including the possible loss of export or import privileges; fines, which may be imposed on us and responsible employees or managers; and, in extreme cases, the incarceration of responsible employees or managers.

In addition, changes in our products or solutions or changes in applicable export or import laws and regulations may create delays in the introduction, provision, or sale of our products and solutions in international markets, prevent customers from using our products and solutions or, in some cases, prevent the export or import of our products and solutions to certain countries, governments or persons altogether. Any limitation on our ability to export, provide, or sell our products and solutions could adversely affect our business, financial condition and results of operations.

We are subject to U.S. and foreign anti-corruption and anti-money laundering laws with respect to our operations and non-compliance with such laws can subject us to criminal and/or civil liability and harm our business.

We are subject to the U.S. Foreign Corrupt Practices Act of 1977, as amended, or the FCPA, the U.S. domestic bribery statute contained in 18 U.S.C. §201, the U.S. Travel Act, the USA PATRIOT Act, and possibly other state and national anti-bribery and anti-money laundering laws in countries in which we conduct activities. Anti-corruption laws are interpreted broadly and prohibit companies and their employees, agents, third-party intermediaries, joint venture partners and collaborators from authorizing, promising, offering, or providing, directly or indirectly, improper payments or benefits to recipients in the public or private sector. We have used contract research organizations abroad for clinical trials. In addition, we may engage third party intermediaries to sell our products and solutions abroad once we enter a commercialization phase for our product candidates and/or to obtain necessary permits, licenses, and other regulatory approvals. We or our third-party intermediaries may have direct or indirect interactions with officials and employees of government agencies or state-owned or affiliated entities. We can be held liable for the corrupt or other illegal activities of these third-party intermediaries, our employees, representatives, contractors, partners, and agents, even if we do not explicitly authorize or have actual knowledge of such activities.

We adopted an anti-corruption policy in connection with the consummation of the IPO of our common stock in July 2015. The anti-corruption policy mandates compliance with the FCPA and other anti-corruption laws applicable to our business throughout the world. However, there can be no assurance that our employees and third party intermediaries will comply with this policy or such anti-corruption laws. Noncompliance with anti-corruption and anti-money laundering laws could subject us to whistleblower complaints, investigations, sanctions, settlements, prosecution, other investigations, or other enforcement actions. If such actions are launched, or governmental or other sanctions are imposed, or if we do not prevail in any possible civil or criminal litigation, our business, results of operations and financial condition could be materially harmed. In addition, responding to any action will likely result in a materially significant diversion of management's attention and resources and significant defense and compliance costs and other professional fees. In certain cases, enforcement authorities may even cause us to appoint an independent compliance monitor, which can result in added costs and administrative burdens.

Changes in funding for the FDA, the SEC and other government agencies could hinder their ability to hire and retain key leadership and other personnel, prevent new products and services from being developed or commercialized in a timely manner or otherwise prevent those agencies from performing normal functions on which the operation of our business may rely, which could negatively impact our business.

The ability of the FDA to review and approve new products can be affected by a variety of factors, including government budget and funding levels, ability to hire and retain key personnel and accept payment of user fees, and statutory, regulatory, and policy changes. Average review times at the agency have fluctuated in recent years as a result. In addition, government funding of the FDA, the Securities and Exchange Commission, or SEC, and other government agencies on which our operations may rely is inherently fluid and unpredictable.

Disruptions at the FDA and other agencies may also slow the time necessary for new drugs to be reviewed and/or approved by necessary government agencies, which would adversely affect our business. For example, over the last several years, including beginning on December 22, 2018, the U.S. government has shut down several times and certain regulatory agencies, such as the FDA and the SEC, have had to furlough critical FDA, SEC and other government employees and stop critical activities. If a prolonged government shutdown occurs, it could significantly impact the ability of the FDA to timely review and process our regulatory submissions, which could have a material adverse effect on our business. Further, future government shutdowns could potentially impact our ability to access the public markets and obtain necessary capital in order to properly capitalize and continue our operations.

We may be, or may become, subject to data protection laws and regulations, and our failure to comply with such laws and regulations could lead to government enforcement actions and significant penalties against us, and adversely impact our operating results.

The E.U. has adopted data protection laws and regulations which may apply to us in certain circumstances, or in the future. These laws, which impose significant compliance obligations, are commonly known as the General Data Protection Regulation, or GDPR. The GDPR, which is wide-ranging in scope and applicability, imposes several requirements relating to the consent of the individuals to whom the personal data relates, the information provided to the individuals, the security and confidentiality of the personal data, data breach notification and the use of third party processors in connection with the processing of personal data, including clinical trials. The GDPR also imposes strict rules on the transfer of personal data out of the E.U. to the U.S., provides an enforcement authority, and imposes large penalties for noncompliance, including the potential for fines of up to €20 million or 4% of the annual global revenues of the noncompliant company, whichever is greater. Implementation of the GDPR, as applicable to us, will increase our responsibility and liability in relation to personal data that we process, including in clinical trials, and we may in the future be required to put in place additional mechanisms to ensure compliance with the GDPR, which could divert management's attention and increase our cost of doing business. In addition, other new regulation or legislative actions regarding data privacy and security (together with applicable industry standards) may increase our costs of doing business. In this regard, we expect that there will continue to be new proposed laws, regulations and industry standards relating to privacy and data protection in the U.S., the E.U. and other jurisdictions, and we cannot determine the impact such future laws, regulations and standards may have on our business.

Risks Relating to Our Intellectual Property

If our efforts to protect the intellectual property related to our product candidates are not adequate, we may not be able to compete effectively in our market.

We rely upon a combination of patents, trade secret protection and contractual agreements, including confidentiality agreements to protect the intellectual property related to our product candidates and technology. Any disclosure to or misappropriation by third parties of our confidential proprietary information could enable competitors to quickly duplicate or surpass our technological achievements, eroding our competitive position in the market. We believe that we have worldwide commercial rights to the NK-92 cell line and we believe that we control commercial use of our haNK, taNK, t-haNK, MSC and ceNK cells in key territories. We have developed and in-licensed numerous patents and patent applications and we possess substantial know-how and trade secrets relating to the development and commercialization of natural killer cell-based immunotherapy product candidates, including related manufacturing processes and technology. Our owned and licensed patent portfolio consists of patents and pending patent applications in the U.S. disclosing subject matter directed to certain of our proprietary technology, inventions, and improvements and our most advanced product candidates, as well as licensed and owned patents and pending applications in jurisdictions outside of the U.S., that, in many cases, are counterparts to the foregoing U.S. patents and patent applications. We believe we have intellectual property rights that are necessary to commercialize haNK, taNK, t-haNK, MSC and ceNK cells. However, our patent applications may not result in issued patents, and, even if issued, the patents may be challenged and invalidated. Moreover, our patents and patent applications may not be sufficiently broad to prevent others from practicing our technologies or developing competing products. We also face the risk that others may independently develop similar or alternative technologies or may design around our proprietary property.

The patent application process, also known as patent prosecution, is expensive and time-consuming, and we and our current or future licensors and licensees may not be able to prepare, file and prosecute all necessary or desirable patent applications at a reasonable cost or in a timely manner. It is also possible that we or our current licensors, or any future licensors or licensees, will fail to identify patentable aspects of inventions made in the course of development and commercialization activities before it is too late to obtain patent protection on them. Therefore, these and any of our patents and applications may not be prosecuted and enforced in a manner consistent with the best interests of our business. Defects of form in the preparation or filing of our patents or patent applications may exist, or may arise in the future, for example with respect to proper priority claims, inventorship, etc. If we or our current licensors, or any future licensors or licensees, fail to establish, maintain or protect such patents and other intellectual property rights, such rights may be reduced or eliminated. If our current licensors, or any future licensors or licensees, are not fully cooperative or disagree with us as to the prosecution, maintenance or enforcement of any patent rights, such patent rights could be compromised. If there are material defects in the form or preparation of our patents or patent applications, such patents or applications may be invalid and unenforceable. Any of these outcomes could impair our ability to prevent competition from third parties, which may have an adverse impact on our business.

The strength of patents in the biopharmaceutical field involves complex legal and scientific questions and can be uncertain. This uncertainty includes changes to the patent laws through either legislative action to change statutory patent law or court action that may reinterpret existing law or rules in ways affecting the scope or validity of issued patents. The patent applications that we own or in-license may fail to result in issued patents in the U.S. or foreign countries with claims that cover our product candidates. Even if patents do successfully issue from the patent applications that we own or in-license, third parties may challenge the validity, enforceability or scope of such patents, which may result in such patents being narrowed, invalidated or held unenforceable.

Any successful challenge to our patents could deprive us of exclusive rights necessary for the successful commercialization of our product candidates. Furthermore, even if they are unchallenged, our patents may not adequately protect our product candidates, provide exclusivity for our product candidates, or prevent others from designing around our claims. If the breadth or strength of protection provided by the patents we hold or pursue with respect to our product candidates is challenged, it could dissuade companies from collaborating with us to develop, or threaten our ability to commercialize our product candidates.

Patents have a limited lifespan. In the U.S., the natural expiration of a patent is generally 20 years after its earliest effective non-provisional filing date. Various extensions may be available; however, the life of a patent, and the protection it affords, is limited. Without patent protection for our product candidates, we may be open to competition from generic versions of our product candidates. Further, if we encounter delays in our development efforts, including our clinical trials, the period of time during which we could market our product candidates under patent protection would be reduced.

In addition to the protection afforded by patents, we also rely on trade secret protection to protect proprietary know-how that may not be patentable or that we elect not to patent, processes for which patents may be difficult to obtain or enforce, and any other elements of our product candidates, and our product development processes (such as a manufacturing and formulation technologies) that involve proprietary know-how, information or technology that is not covered by patents. However, trade secrets can be difficult to protect. If the steps taken to maintain our trade secrets are deemed inadequate, we may have insufficient recourse against third parties for misappropriating any trade secrets. Misappropriation or unauthorized disclosure of our trade secrets could significantly affect our competitive position and may have a material adverse effect on our business. Furthermore, trade secret protection does not prevent competitors from independently developing substantially equivalent information and techniques and we cannot guarantee that our competitors will not independently develop substantially equivalent information and techniques. The FDA, as part of its Transparency Initiative, is currently considering whether to make additional information publicly available on a routine basis, including information that we may consider to be trade secrets or other proprietary information, and it is not clear at the present time how the FDA's disclosure policies may change in the future, if at all.

In an effort to protect our trade secrets and other confidential information, we require our employees, consultants, advisors, and any other third parties that have access to our proprietary know-how, information or technology, for example, third parties involved in the formulation and manufacture of our product candidates, and third parties involved in our clinical trials to execute confidentiality agreements upon the commencement of their relationships with us. These agreements require that all confidential information developed by the individual or made known to the individual by us during the course of the individual's relationship with us be kept confidential and not disclosed to third parties. However, we cannot be certain that our trade secrets and other confidential proprietary information will not be disclosed despite having such confidentiality agreements. Adequate remedies may not exist in the event of unauthorized use or disclosure of our trade secrets. In addition, in some situations, these confidentiality agreements may conflict with, or be subject to, the rights of third parties with whom our employees, consultants, or advisors have previous employment or consulting relationships. To the extent that our employees, consultants or contractors use any intellectual property owned by third parties in their work for us, disputes may arise as to the rights in any related or resulting know-how and inventions. If we are unable to prevent unauthorized material disclosure of our trade secrets to third parties, we may not be able to establish or maintain a competitive advantage in our market, which could materially adversely affect our business, operating results and financial condition.

Changes in U.S. patent law could diminish the value of patents in general, thereby impairing our ability to protect our products.

As is the case with other biopharmaceutical companies, our success is heavily dependent on intellectual property, particularly on obtaining and enforcing patents. Obtaining and enforcing patents in the pharmaceutical industry involves both technological and legal complexity, and therefore, is costly, time-consuming and inherently uncertain. In addition, the U.S. had previously enacted and implemented wide-ranging patent reform legislation (e.g., the Leahy-Smith America Invents Act in September 2011) and are currently considering additional legislation that may materially impact our ability to obtain or enforce our patents. Further, recent U.S. Supreme Court rulings and recent decisions from the United States Court of Appeals for the Federal Circuit have either narrowed the scope of patent protection available in certain circumstances or weakened the rights of patent owners in certain situations. In addition to increasing uncertainty with regard to our ability to obtain patents in the future, this combination of events has created uncertainty with respect to the value of patents, once obtained.

In addition, changes to U.S. patent laws provide additional procedures for third parties to challenge the validity of issued patents based on patent applications filed after March 15, 2013. If the breadth or strength of protection provided by the patents and patent applications we hold or pursue with respect to our current or future product candidates is challenged, then it could threaten our ability to commercialize our current or future product candidates and could threaten our ability to prevent competitive products from being marketed. Further, if we encounter delays in our clinical trials, the period of time during which we could market our current or future product candidates under patent protection would be reduced. Since U.S. patent applications are confidential for a period of time after filing, we cannot be certain that we were the first to either (i) file any patent application related to our product candidates, or (ii) invent any of the inventions claimed in our patents or patent applications. Furthermore, for applications filed before March 16, 2013, or patents issuing from such applications, an interference proceeding can be provoked by a third party or instituted by the U.S. Patent and Trademark Office, or USPTO, to determine who was the first to invent any of the subject matter covered by the patent claims of our applications and patents. As of March 16, 2013, the U.S. transitioned to a "first-to-file" system for deciding which party should be granted a patent when two or more patent applications are filed by different parties claiming the same invention. A third party that files a patent application with the USPTO before us could, therefore, be awarded a patent covering an invention of ours even if we had made the invention before it was made by the third party. The change to "first-to-file" from "first-to-invent" is one of the changes to the U.S. patent laws resulting from the Leahy-Smith America Invents Act, or the Leahy-Smith Act, signed into law on September 16, 2011.

Among some of the other significant changes to the patent laws are changes that limit where a patentee may file a patent infringement suit and provide opportunities for third parties to challenge any issued patent in the USPTO. This applies to all of our U.S. patents, even those issued before March 16, 2013. Because of a lower evidentiary standard in USPTO proceedings compared to the evidentiary standard in U.S. federal court necessary to invalidate a patent claim, a third party could potentially provide evidence in a USPTO proceeding sufficient for the USPTO to hold a claim invalid even though the same evidence would be insufficient to invalidate the claim if first presented in a district court action. Accordingly, a third party may attempt to use the USPTO procedures to invalidate our patent claims that would not have been invalidated if first challenged by the third party as a defendant in a district court action. It is not yet clear what, if any, impact the Leahy-Smith Act will have on the operation of our business. However, the Leahy-Smith Act and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents, all of which could have a material adverse effect on our business and financial condition.

We may not be able to protect our intellectual property rights throughout the world.

We strive to control cell line distribution, as well as limit commercial use through licenses and material transfer agreements with third parties in addition to our patents and patent applications. However, a company may illicitly obtain our cells or create their own modified variants and attempt to commercialize them in foreign countries where we do not have any patents or patent applications where legal recourse may be limited. For example, we believe that certain companies, including at least one in China, may be using our NK-92 cell line without our permission. This may have a significant commercial impact on our foreign business operations.

Filing, prosecuting and defending patents on our product candidates in all countries throughout the world would be prohibitively expensive, and our intellectual property rights in some countries outside the U.S. can be less extensive than those in the U.S. The requirements for patentability may differ in certain countries, particularly developing countries. In addition, the laws of some foreign countries do not protect intellectual property rights to the same extent as federal and state laws in the U.S. and in some cases, may even force us to grant a compulsory license to competitors or other third parties. Consequently, we may not be able to prevent third parties from practicing our inventions in all countries outside the U.S., or from selling or importing products made using our inventions in and into the U.S. or other jurisdictions. Competitors may use our technologies in jurisdictions where we have not obtained patent protection to develop their own products and further, may export otherwise infringing products to territories where we have patent protection, but enforcement on infringing activities is inadequate or not as strong as that in the U.S. These products may compete with our products, and our patents or other intellectual property rights may not be effective or sufficient to prevent them from competing.

Patents granted by the European Patent Office may be opposed by any person within nine months from the publication of their grant and, in addition, may be challenged before national courts at any time. Furthermore, even if they are unchallenged, our patents and patent applications may not adequately protect our intellectual property or prevent others from designing around our claims. If the breadth or strength of protection provided by the patents and patent applications we hold, license or pursue with respect to our product candidates is threatened, it could threaten our ability to commercialize our product candidates.

Many companies have encountered significant problems in protecting and defending intellectual property rights in foreign jurisdictions. The legal systems of certain countries, particularly certain developing countries, do not favor the enforcement of patents and other intellectual property protection, particularly those relating to pharmaceuticals or biopharmaceuticals, which could make it difficult for us to stop the infringement of our patents or marketing of competing products in violation of our proprietary rights generally. Proceedings to enforce our patent rights in foreign jurisdictions could result in substantial costs and divert our efforts and attention from other aspects of our business, could put our patents at risk of being invalidated or interpreted narrowly and our patent applications at risk of not issuing, and could provoke third parties to assert claims against us. We may not prevail in any lawsuits that we initiate and the damages or other remedies awarded, if any, may not be commercially meaningful. In addition, certain countries in Europe and certain developing countries, including India and China, have compulsory licensing laws under which a patent owner may be compelled to grant licenses to third parties. In those countries, we may have limited remedies if our patents are infringed or if we are compelled to grant a license to our patents to a third party, which could materially diminish the value of those patents. This could limit our potential revenue opportunities. Accordingly, our efforts to enforce our intellectual property rights around the world may be inadequate to obtain a significant commercial advantage from the intellectual property that we own or license.

Finally, our ability to protect and enforce our intellectual property rights may be adversely affected by unforeseen changes in foreign intellectual property laws.

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

The USPTO and various foreign governmental patent agencies require compliance with a number of procedural, documentary, fee payment and other similar provisions during the patent prosecution process. Periodic maintenance fees and various other governmental fees on any issued patent and/or pending patent applications are due to be paid to the USPTO and foreign patent agencies in several stages over the lifetime of a patent or patent application. We have systems in place to remind us to pay these fees, and we employ an outside firm and rely on our outside counsel to pay these fees. While an inadvertent lapse may sometimes be cured by payment of a late fee or by other means in accordance with the applicable rules, there are many situations in which noncompliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. If we fail to maintain the patents and patent applications directed to our product candidates, our competitors might be able to enter the market earlier than should otherwise have been the case, which would have a material adverse effect on our business.

Third-party claims alleging intellectual property infringement may adversely affect our business.

Our commercial success depends in part on our avoiding infringement of the patents and proprietary rights of third parties, for example, the intellectual property rights of competitors. Our research, development and commercialization activities may be subject to claims that we infringe or otherwise violate patents owned or controlled by third parties. Numerous U.S. and foreign issued patents and pending patent applications, which are owned by third parties, exist in the fields in which we are developing our product candidates. As the biotechnology and pharmaceutical industries expand and more patents are issued, the risk increases that our activities related to our product candidates may give rise to claims of infringement of the patent rights of others. We cannot assure you that our product candidates will not infringe existing or future patents. We may not be aware of patents that have already issued that a third party, for example a competitor in our market, might assert are infringed by our product candidates. It is also possible that patents of which we are aware, but which we do not believe are relevant to our product candidates, could nevertheless be found to be infringed by our product candidates. Nevertheless, we are not aware of any issued patents that we believe would prevent us from marketing our product candidates, if approved. There may also be patent applications that have been filed but not published that, when issued as patents, could be asserted against us.

Third parties making claims against us for infringement or misappropriation of their intellectual property rights may seek and obtain injunctive or other equitable relief, which could effectively block our ability to further develop and commercialize our product candidates. Further, if a patent infringement suit were brought against us, we could be forced to stop or delay research, development, manufacturing or sales of the product or product candidate that is the subject of the suit. Defense of these claims, regardless of their merit, would cause us to incur substantial expenses, and would be a substantial diversion of employee resources from our business. In the event of a successful claim of infringement against us by a third party, we may have to (1) pay substantial damages, including treble damages and attorneys' fees if we are found to have willfully infringed the third party's patents; (2) obtain one or more licenses from the third party; (3) pay royalties to the third party; and/or (4) redesign any infringing products. Redesigning any infringing products may be impossible or require substantial time and monetary expenditure. Further, we cannot predict whether any required license would be available at all or whether it would be available on commercially reasonable terms. In the event that we could not obtain a license, we may be unable to further develop and commercialize our product candidates, which could harm our business significantly. Even if we are able to obtain a license, the license would likely obligate us to pay license fees or royalties or both, and the rights granted to us might be nonexclusive, which could result in our competitors gaining access to the same intellectual property. Ultimately, we could be prevented from commercializing a product, or be forced to cease some aspect of our business operations, if, as a result of actual or threatened patent infringement claims, we are unable to enter into licenses on acceptable terms.

Defending ourselves or our licensors in litigation is very expensive, particularly for a company of our size, and time-consuming. Some of our competitors may be able to sustain the costs of litigation or administrative proceedings more effectively than we can because of greater financial resources. Patent litigation and other proceedings may also absorb significant management time. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could impair our ability to compete in the marketplace. The occurrence of any of the foregoing could have a material adverse effect on our business, financial condition or results of operations.

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

Third parties may infringe or misappropriate our intellectual property, including our existing patents, patents that may issue to us in the future, or the patents of our licensors to which we have a license. As a result, we may be required to file infringement claims to stop third-party infringement or unauthorized use. Further, we may not be able to prevent, alone or with our licensors, misappropriation of our intellectual property rights, particularly in countries where the laws may not protect those rights as fully as in the U.S.

Generic drug manufacturers may develop, seek approval for, and launch generic versions of our products. If we file an infringement action against such a generic drug manufacturer, that company may challenge the scope, validity or enforceability of our or our licensors' patents, requiring us and/or our licensors to engage in complex, lengthy and costly litigation or other proceedings.

For example, if we or one of our licensors initiated legal proceedings against a third party to enforce a patent covering our product candidates, the defendant could counterclaim that the patent covering our product candidates is invalid and/or unenforceable. In patent litigation in the U.S., defendant counterclaims alleging invalidity and/or unenforceability are commonplace, and there are numerous grounds upon which a third party can assert invalidity or unenforceability of a patent.

In addition, within and outside of the U.S., there has been a substantial amount of litigation and administrative proceedings, including interference and reexamination proceedings before the USPTO or oppositions and other comparable proceedings in various foreign jurisdictions, regarding patent and other intellectual property rights in the biopharmaceutical industry. The Leahy-Smith Act introduced procedures including inter partes review and post grant review. The implementation of these procedures brings uncertainty to the possibility of challenges to our patents in the future, including those that patents perceived by our competitors as blocking entry into the market for their products, and the outcome of such challenges.

Such litigation and administrative proceedings could result in revocation of our patents or amendment of our patents such that they do not cover our product candidates. They may also put our pending patent applications at risk of not issuing, or issuing with limited and potentially inadequate scope to cover our product candidates. The outcome following legal assertions of invalidity and unenforceability is unpredictable. With respect to the validity question, for example, we cannot be certain that there is no invalidating prior art, of which we and the patent examiner were unaware during prosecution. Additionally, it is also possible that prior art of which we are aware, but which we do not believe affects the validity or enforceability of a claim, may, nonetheless, ultimately be found by a court of law or an administrative panel to affect the validity or enforceability of a claim, for example if a priority claim is found to be improper. If a defendant were to prevail on a legal assertion of invalidity and/or unenforceability, we would lose at least part, and perhaps all, of the patent protection on our product candidates. Such a loss of patent protection could have a material adverse impact on our business.

Enforcing our or our licensor's intellectual property rights through litigation is very expensive, particularly for a company of our size, and time-consuming. Some of our competitors may be able to sustain the costs of litigation more effectively than we can because of greater financial resources. Patent litigation and other proceedings may also absorb significant management time. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could impair our ability to compete in the marketplace. The occurrence of any of the foregoing could have a material adverse effect on our business, financial condition or results of operations.

Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation or administrative proceedings, there is a risk that some of our confidential information could be compromised by disclosure. In addition, during the course of litigation or administrative proceedings, there could be public announcements of the results of hearings, motions or other interim proceedings or developments or public access to related documents. If investors perceive these results to be negative, the market price for our common stock could be significantly harmed.

If we fail to comply with our obligation in any of the agreements under which we license intellectual property rights from third parties or otherwise experience disruptions to our business relationships with our licensors, we could lose license rights that are important to our business.

Licensing of intellectual property rights is of critical importance to our business and involves complex legal, business and scientific issues. We rely on our exclusive license from Hans Klingemann, M.D., Ph.D., one of our founders and the inventor of our aNK and related platform product cell therapies, and subject to our freedom to operate we may or may not rely on our exclusive licenses from Rush University Medical Center, Fox Chase Cancer Research Center, the University Health Network, and other current and future licensors, including ImmunityBio with respect to the Joint COVID-19 Collaboration. If we fail to comply with the diligence obligations or otherwise materially breach our license agreement and fail to remedy such failure or cure such breach, the licensor may have the right to terminate the license.

Our obligation to pay royalties to Dr. Klingemann under the license agreement, as amended, runs until the expiration of the underlying patents and the license agreement may be terminated earlier by either party for material breach. Under the license agreement, we have the right to enforce the licensed patents.

Disputes may arise between us and our licensors regarding intellectual property rights subject to a license agreement, including:

- the scope of rights granted under the license agreement and other interpretation-related issues;
- our right to sublicense intellectual property rights to third parties under collaborative development relationships; and
- our diligence obligations with respect to the use of the licensed technology in relation to our development and commercialization of our product candidates, and what activities satisfy those diligence obligations.

While we would expect to exercise all rights and remedies available to us, including seeking to cure any breach by us, and otherwise seek to preserve our rights under the patents licensed to us, we may not be able to do so in a timely manner, at an acceptable cost, or at all. Generally, the loss of any one of our current licenses, or any other license we may acquire in the future, could materially harm our business, prospects, financial condition and results of operations. In late May 2020, we received a letter from Fox Chase Cancer Center alleging breaches of our license. If the letter is found to be a proper notice of termination and the alleged breaches are confirmed and found to be material, we will lose the licensed rights. We do not consider these licensed rights to be material.

One of NantKwest's ten issued U.S. patents is subject to a claim challenging the inventorship.

On September 10, 2020, a legal complaint was filed in a California court where Institute for Cancer Research (d/b/a Fox Chase Cancer Center) argued that it has a co-ownership interest in U.S. Patent No. 10,456,420 and its underlying U.S. Patent Application No. 15/529,848, as well as in certain related patent applications or issued patents that include claimed subject matter allegedly invented by one of the claimant's employees. On September 30, 2020, NantKwest filed motion with the court asking that the complaint be dismissed. NantKwest disagrees that this claim for co-ownership has merit and intends to vigorously defend its position. All of the existing named inventors have assigned their rights in this patent to NantKwest. NantKwest will continue to have an undivided ownership interest in the technology covered by this patent even if claimant succeeds in this suit. Litigating this matter could result in substantial costs and be a distraction to management and other employees. Any of the foregoing could have a material adverse effect on our business, financial condition, results of operations and growth prospects.

Confidentiality agreements with employees and others may not adequately prevent disclosure of our trade secrets and other proprietary information and may not adequately protect our intellectual property, which could limit our ability to compete.

Because we operate in the highly technical field of research and development, we rely in part on trade secret protection and confidentiality agreements, including those with our employees and consultants, in order to protect our proprietary trade secrets and unpatented know-how. However, trade secrets are difficult to protect, and we cannot be certain that others will not develop the same or similar technologies on their own. We have taken steps, including entering into confidentiality agreements with our employees, consultants, outside scientific collaborators, sponsored researchers and other advisors, to protect our trade secrets and unpatented know-how. These agreements generally require that the other party keep confidential and not disclose to third parties all confidential information developed by the party or made known to the party by us during the course of the party's relationship with us. We also typically obtain agreements from these parties, which provide that inventions conceived by the party in the course of rendering services to us will be our exclusive property. However, these agreements may not be honored and may not effectively assign intellectual property rights to us. Adequate remedies may not exist in the event of unauthorized use or disclosure of our confidential intellectual property. Enforcing a claim that a party illegally obtained and is using our trade secrets or know-how is difficult, expensive and time consuming, and the outcome is unpredictable. In addition, courts outside the U.S. may be less willing to protect trade secrets or know-how. The failure to obtain or maintain trade secret protection could adversely affect our competitive position. Also, third parties, including our competitors, may independently develop substantially equivalent proprietary information and technologies or otherwise lawfully gain access to our trade secrets and other confidential information. In such a case, we would have no right to prevent such third parties from using such proprietary information or technologies to compete with us, which could harm our competitive position.

We may be subject to claims that our employees, consultants or independent contractors have wrongfully used or disclosed confidential information of third parties.

We have received confidential and proprietary information from third parties. In addition, we employ individuals who were previously employed at other biotechnology or pharmaceutical companies, including our competitors or potential competitors. We may be subject to claims that we or our employees, consultants or independent contractors have inadvertently or otherwise improperly used or disclosed intellectual property, including trade secrets, confidential information, or other proprietary information, of these third parties or our employees' or consultants' or independent contractors' former or other employers. Further, we may be subject to ownership disputes in the future arising, for example, from conflicting obligations of consultants or others who are involved in developing our product candidates. We may also be subject to claims that former employees, consultants, independent contractors, collaborators or other third parties have an ownership interest in our patents or other intellectual property. Litigation may be necessary to defend against these and other claims challenging our right to and use of confidential and proprietary information. If we fail in defending any such claims, in addition to paying monetary damages, we may lose our rights therein. Such an outcome could have a material adverse effect on our business. Even if we are successful in defending against these claims, litigation could result in substantial cost and be a distraction to our management and employees.

Risks Relating to Our Common Stock

****Our Chairman, and entities affiliated with him, collectively own a significant majority of our common stock and will exercise significant influence over matters requiring stockholder approval, regardless of the wishes of other stockholders.***

As of September 30, 2020, our Chairman, Dr. Patrick Soon-Shiong, and entities affiliated with him, collectively own approximately 64.4% of the outstanding shares of our common stock. Additionally, Dr. Soon-Shiong holds vested options to purchase an aggregate of 900,000 additional shares of our common stock, which would give him and his affiliates ownership of approximately 64.7% of our outstanding shares of common stock if they were exercised in full. In addition, pursuant to the Nominating Agreement between us and Cambridge Equities, LP, or Cambridge, an entity that Dr. Soon-Shiong controls, Cambridge has the ability to designate one director to be nominated for election to our board of directors for as long as Cambridge continues to hold at least 20% of the issued and outstanding shares of our common stock. Dr. Soon-Shiong was selected by Cambridge to hold this board seat. Dr. Soon-Shiong and his affiliates will therefore have significant influence over management and significant control over matters requiring stockholder approval, including the annual election of directors and significant corporate transactions, such as a merger or other sale of our company or its assets, for the foreseeable future. This concentrated control will limit stockholders' ability to influence corporate matters and, as a result, we may take actions that our stockholders do not view as beneficial. As a result, the market price of our common stock could be adversely affected.

The market price of our common stock has been and may continue to be volatile, and investors may have difficulty selling their shares.

Although our common stock is listed on The Nasdaq Global Select Market, the market for our shares has demonstrated varying levels of trading activity. You may not be able to sell your shares quickly or at the market price if trading in shares of our common stock is not active. Further, an inactive market may also impair our ability to raise capital by selling shares of our common stock and may impair our ability to enter into strategic partnerships or acquire companies or products by using our shares of common stock as consideration.

The stock market in general and the market for biopharmaceutical companies in particular have experienced extreme volatility that has often been unrelated to the operating performance of particular companies. The market price of our common stock has been and may continue to be highly volatile and could be subject to wide fluctuations in response to various factors, some of which are beyond our control, including:

- the commencement, enrollment or results of the planned clinical trials of our product candidates or any future clinical trials we may conduct, or changes in the development status of our product candidates;
- any delay in our regulatory filings for our product candidates and any adverse development or perceived adverse development with respect to the applicable regulatory authority's review of such filings, including without limitation the FDA's issuance of a "refusal to file" letter or a request for additional information;
- adverse results or delays in clinical trials;
- our decision to initiate a clinical trial, not to initiate a clinical trial or to terminate an existing clinical trial;
- adverse regulatory decisions, including failure to receive regulatory approval of our product candidates;
- changes in laws or regulations applicable to our products, including but not limited to clinical trial requirements for approvals;
- our failure to commercialize our product candidates;
- additions or departures of key scientific or management personnel;
- unanticipated serious safety concerns related to the use of our product candidates;
- announcements by us or our competitors of significant contracts, acquisitions, strategic partnerships, joint ventures or capital commitments;
- our ability to effectively manage our growth;
- variations in our quarterly operating results;
- our cash position and the amount and nature of any debt we may incur;
- announcements that our revenue or income are below or that costs or losses are greater than analysts' expectations;
- publication of research reports about us or our industry, or immunotherapy in particular, or positive or negative recommendations or withdrawal of research coverage by securities analysts;
- changes in the market valuations of similar companies;
- sales of large blocks of our common stock;
- fluctuations in stock market prices and volumes;
- disputes or other developments relating to proprietary rights, including patents, litigation matters and our ability to obtain patent protection for our technologies;
- significant lawsuits, including patent or stockholder litigation;
- the perception of our clinical trial results by retail investors, which investors may be subject to the influence of information provided by third party investor websites and independent authors distributing information on the internet;
- general economic slowdowns;
- investors' perceptions regarding the viability and timing of a COVID-19 vaccine; and
- the other factors described in this "*Risk Factors*" section.

In the past, securities class action litigation has often been instituted against companies following periods of volatility in the market price of a company's securities. This type of litigation could result in substantial costs and a diversion of management's attention and resources, which would harm our business, operating results or financial condition.

Future sales and issuances of our common stock or rights to purchase common stock, including pursuant to our equity incentive plan, could result in additional dilution of the percentage ownership of our stockholders and could cause our stock price to fall.

Sales of a substantial number of shares of our common stock in the public market could occur at any time. If our stockholders sell, or the market perceives that our stockholders intend to sell substantial amounts of our common stock in the public market, the market price of our common stock could decline significantly. In addition, as of September 30, 2020 our Chairman, Dr. Patrick Soon-Shiong, and his affiliates beneficially owned approximately 64.7% of our outstanding shares of common stock. Sales of stock by Dr. Soon-Shiong and his affiliates could have an adverse effect on the trading price of our common stock.

Certain holders of approximately 46.2 million shares of our common stock are entitled to certain rights with respect to the registration of their shares under the Securities Act. Registration of these shares under the Securities Act would result in the shares becoming freely tradable without restriction under the Securities Act, except for shares held by our affiliates as defined in Rule 144 under the Securities Act. Any sales of securities by these stockholders could have an adverse effect on the market price of our common stock.

In addition, we expect that additional capital may be needed in the future to continue our planned operations, including conducting clinical trials, commercialization efforts, expanded research and development activities and costs associated with operating a public company. To raise capital, we may sell common stock, convertible securities or other equity securities in one or more transactions at prices and in a manner we determine from time to time. If we sell common stock, convertible securities or other equity securities, investors may be materially diluted by subsequent sales. Such sales may also result in material dilution to our existing stockholders, and new investors could gain rights, preferences and privileges senior to the holders of our common stock.

We have incurred and will continue to incur costs as a result of operating as a public company and our management has been and will be required to devote substantial time to compliance initiatives and corporate governance practices, including maintaining an effective system of internal control over financial reporting.

As a public company listed in the U.S., and increasingly after we are no longer an "emerging growth company," we have incurred and will continue to incur significant additional legal, accounting and other expenses as a result of operating as a public company. In addition, changing laws, regulations and standards relating to corporate governance and public disclosure, including Sarbanes-Oxley and regulations implemented by the SEC and Nasdaq, may increase legal and financial compliance costs and make some activities more time consuming. These laws, regulations and standards are subject to varying interpretations and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. We intend to invest resources to create a larger finance function with additional personnel to comply with evolving laws, regulations and standards, and this investment may result in increased general and administrative expenses and a diversion of management's time and attention from revenue-generating activities to compliance activities. If, notwithstanding our efforts to comply with new laws, regulations and standards, we fail to comply, regulatory authorities may initiate legal proceedings against us and our business may be harmed.

As a public company in the U.S., we are required, pursuant to Section 404 of Sarbanes-Oxley, or Section 404, to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting. We must disclose any material weaknesses identified by our management in our internal control over financial reporting, and, when we are no longer an "emerging growth company," and if we are not a smaller reporting company at that time, we will need to provide a statement that our independent registered public accounting firm has issued an opinion on our internal control over financial reporting.

The controls and other procedures are designed to ensure that information required to be disclosed by us in the reports that we file with the SEC is disclosed accurately and is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms. We did not engage our independent registered public accounting firm to perform an audit of, and give an opinion on, our internal control over financial reporting for the year ended December 31, 2019, or for any other prior period. No such opinion was expressed in 2019 and, based on current rules and regulations, an independent audit of our internal control over financial reporting may not be necessary for some time, if ever. There can be no assurance that we will not discover deficiencies or a material weakness in our internal control over financial reporting or that our auditor will agree with management's assessment of our internal control over financial reporting if or when our auditor conducts such audit and delivers an opinion.

In the normal course of business our controls and procedures may become inadequate because of changes in conditions or the degree of compliance with these policies or procedures may deteriorate and material weaknesses in our internal control over financial reporting may be discovered. We may err in the design or operation of our controls, and all internal control systems, no matter how well designed and operated, can provide only reasonable assurance that the objectives of the control system are met. Because there are inherent limitations in all control systems, there can be no absolute assurance that all control issues have been or will be detected. If we are unable, or are perceived as unable, to produce reliable financial reports due to internal control deficiencies, investors could lose confidence in our reported financial information and operating results, which could result in a negative market reaction.

To fully comply with Section 404, we will need to retain additional employees to supplement our current finance staff, and we may not be able to do so in a timely manner, or at all. In addition, in the process of evaluating our internal control over financial reporting, we expect that certain of our internal control practices will need to be updated to comply with the requirements of Section 404 and the regulations promulgated thereunder, and we may not be able to do so on a timely basis, or at all. In the event that we are not able to demonstrate compliance with Section 404 in a timely manner, or are unable to produce timely or accurate financial statements, we may be subject to sanctions or investigations by regulatory authorities, such as the SEC or Nasdaq, and investors may lose confidence in our operating results and the price of our common stock could decline. Furthermore, if we are unable to certify that our internal control over financial reporting is effective and in compliance with Section 404, we may be subject to sanctions or investigations by regulatory authorities, such as the SEC or stock exchanges, and investor could lose confidence in the accuracy and completeness of our financial reports, which could hurt our business, the price of our common stock and our ability to access the capital markets.

Operating as a public company makes it more expensive for us to obtain directors' and officers' liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These factors could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors, on committees of our board of directors, or as members of senior management.

If a restatement of our financial statements were to occur, our shareholders' confidence in the company's financial reporting in the future may be affected, which could in turn have a material adverse effect on our business and stock price.

If any material weaknesses in our internal control over financial reporting are discovered or occur in the future, our consolidated financial statements may contain material misstatements, and we could be required to restate our financial results. In addition, if we are unable to successfully remediate any future material weaknesses in our internal controls or if we are unable to produce accurate and timely financial statements, our stock price may be adversely affected, and we may be unable to maintain compliance with applicable stock exchange listing requirements.

We have not paid cash dividends in the past and do not expect to pay dividends in the future. Any return on investment may be limited to the value of our common stock.

We have never paid cash dividends on our common stock and do not anticipate paying cash dividends in the foreseeable future. The payment of dividends on our common stock will depend on earnings, financial condition and other business and economic factors affecting us at such time as the board of directors may consider relevant. If we do not pay dividends, our common stock may be less valuable because a return on your investment will only occur if our stock price appreciates.

Because we are relying on the exemptions from corporate governance requirements as a result of being a "controlled company" within the meaning of the Nasdaq listing standards, you do not have the same protections afforded to stockholders of companies that are subject to such requirements.

Our Chairman, Dr. Patrick Soon-Shiong, and entities affiliated with him, control a majority of our common stock. As a result, we are a "controlled company" within the meaning of the Nasdaq listing standards. Under these rules, a company of which more than 50% of the voting power is held by an individual, a group or another company is a "controlled company" and may elect not to comply with certain Nasdaq corporate governance requirements, including (1) the requirement that a majority of the board of directors consist of independent directors, and (2) the requirement that we have a nominating and corporate governance committee that is composed entirely of independent directors with a written charter addressing the committee's purpose and responsibilities. Accordingly, you do not have the same protections afforded to stockholders of companies that are subject to all of the Nasdaq corporate governance requirements. However, our board of directors is currently comprised of a majority of independent directors. In addition, although not required by the rules of Nasdaq, in August 2019, our board of directors established a nominating and corporate governance committee comprised of two directors, which are independent.

We are an "emerging growth company" and a "smaller reporting company," and the reduced disclosure requirements applicable to emerging growth companies and smaller reporting companies could make our common stock less attractive to investors.

We are an "emerging growth company," as defined in the JOBS Act enacted in April 2012, or the JOBS Act, and may remain an "emerging growth company" for up to five years following the completion of our IPO, or December 31, 2020, although, if we have more than $1.07 billion in annual revenue, the market value of our common stock that is held by non-affiliates exceeds $700.0 million as of June 30 of any year, or we issue more than $1.0 billion of non-convertible debt over a three-year period before the end of that five-year period, we would cease to be an "emerging growth company" as of the following December 31. For as long as we remain an "emerging growth company," we are permitted and intend to continue to rely on exemptions from certain disclosure requirements that are applicable to other public companies that are not "emerging growth companies." These exemptions include:

- being permitted to provide only two years of audited financial statements, in addition to any required unaudited interim financial statements, with correspondingly reduced "Management's discussion and analysis of financial condition and results of operations" disclosure;
- not being required to comply with the auditor attestation requirements in the assessment of our internal control over financial reporting;
- not being required to comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor's report providing additional information about the audit and the financial statements;
- reduced disclosure obligations regarding executive compensation; and
- exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and shareholder approval of any golden parachute payments not previously approved.

We have taken advantage of reduced reporting requirements in our public filings. In particular, we have not included all of the executive compensation related information that would be required if we were not an emerging growth company. In addition, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards, delaying the adoption of these accounting standards until they would apply to private companies. We have irrevocably elected not to avail ourselves of this exemption and, as a result, we will adopt new or revised accounting standards on the relevant dates on which adoption of such standards is required for other public companies. Even after we no longer qualify as an emerging growth company, we may, under certain circumstances, still qualify as a "smaller reporting company," which would allow us to take advantage of many of the same exemptions from disclosure requirements, including reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements. Investors may find our common stock less attractive as a result of our reliance on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and the market price of our common stock may be reduced or more volatile.

Our ability to use our net operating loss carryforwards, or NOLs, and certain other tax attributes to offset future taxable income may be subject to certain limitations.

As of December 31, 2019 we had U.S. federal, state and foreign NOLs of $291.8 million, $255.7 million and $0.2 million, respectively, some of which begin to expire in various years starting with 2022, if not utilized. As of December 31, 2019, we also had federal and state research and development tax credit carryforwards of $8.5 million and $5.7 million, respectively. These net operating loss and research and development tax credit carryforwards could expire unused and be unavailable to offset future income tax liabilities.

Under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, if a corporation undergoes an "ownership change," the corporation's ability to use its pre-change NOLs and other pre-change tax attributes, such as research tax credits, to offset its future post-change income and taxes may be limited. In general, an "ownership change" occurs if there is a cumulative change in our ownership by "5% shareholders" that exceeds 50 percentage points over a rolling three-year period. Similar rules may apply under state tax laws. We completed an IRC Section 382/383 analysis through March 2019 regarding the limitation of net operating loss and research and development credit carryforwards. The analysis concluded that the federal and state carryforwards associated with the NOLs were reduced by the amount of tax attributes estimated to expire during their respective carryforward periods.

Since we will need to raise substantial additional funding to finance our operations, we may experience further ownership changes in the future, some of which may be outside of our control. Limits on our ability to use our pre-change NOLs or credits to offset U.S. federal taxable income could potentially result in increased future tax liability to us if we earn net taxable income in the future. In addition, under the legislation commonly referred to as the Tax Cuts and Jobs Act of 2017, or TCJA, as modified by the Coronavirus Aid, Relief, and Economic Security Act, or the CARES Act, the amount of NOLs generated in taxable periods beginning after December 31, 2017, that we are permitted to deduct in any taxable year beginning after December 31, 2020 is limited to 80% of our taxable income in such year, where taxable income is determined without regard to the NOL deduction itself. The TCJA allows post-2017 unused NOLs to be carried forward indefinitely. Similar rules may apply under state tax laws.

We could be subject to additional income tax liabilities.

We are a U.S.-based company subject to tax in the U.S. and in Korea. Significant judgment is required in determining our global provision for income taxes, deferred tax assets or liabilities, and in evaluating our tax positions on a worldwide basis. While we believe our tax positions are consistent with the tax laws in the jurisdictions in which we conduct our business, it is possible that these positions may be overturned by jurisdictional tax authorities, which may have a significant impact on our global provision for income taxes.

Our business may be materially affected by changes to fiscal and tax policies. Negative or unexpected tax consequences could adversely affect our results of operations.

New tax laws, statutes, rules, regulations or ordinances could be enacted at any time, which could adversely affect our domestic and international business operations, and our business and financial performance. Further, existing tax laws, statutes, rules, regulations or ordinances could be interpreted, changed, modified or applied adversely to us. For example, the Tax Cuts and Jobs Act of 2017, or TCJA, that was approved by Congress on December 20, 2017 significantly changed the U.S. Internal Revenue Code. Such changes include a reduction in the corporate tax rate and limitations on certain corporate deductions and credits, among other changes. We have generally accounted for such changes in accordance with our understanding of the TCJA and guidance available as of the date of this filing as described in more detail in our financial statements. The CARES Act, which was signed into law on March 27, 2020, further modified the TCJA and we will continue to monitor and assess the impact of the federal legislation on our business and the extent to which various states conform to the newly enacted federal tax law. In addition, adverse changes in the financial outlook of our operations or further changes in tax laws or regulations could lead to changes in our valuation allowances against deferred tax assets on our consolidated balance sheets, which could materially affect our results of operations.

If securities or industry analysts do not publish research or publish inaccurate or unfavorable research about our business, our share price and trading volume could decline.

The trading market for our common stock will depend on the research and reports that securities or industry analysts publish about us or our business. We do not have any control over these analysts. There can be no assurance that analysts will cover us or provide favorable coverage. If one or more of the analysts who cover us downgrade our stock or change their opinion of our stock, our share price would likely decline. If one or more of these analysts' cease coverage of our company or fail to regularly publish reports on us, we could lose visibility in the financial markets, which could cause our share price or trading volume to decline.

We are not subject to the provisions of Section 203 of the Delaware General Corporation Law, which could negatively affect your investment.

We elected in our amended and restated certificate of incorporation to not be subject to the provisions of Section 203 of the Delaware General Corporation Law. In general, Section 203 prohibits a publicly held Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a period of three years after the date of the transaction in which the person became an interested stockholder, unless the business combination is approved in a prescribed manner. A "business combination" includes a merger, asset sale or other transaction resulting in a financial benefit to the interested stockholder. An "interested stockholder" is a person who, together with affiliates and associates, owns (or, in certain cases, within three years prior, did own) 15% or more of the corporation's voting stock. Our decision not to be subject to Section 203 will allow, for example, our Chairman (who with members of his immediate family and entities affiliated with him owned approximately 64.4% of our common stock as of September 30, 2020) to transfer shares in excess of 15% of our voting stock to a third-party free of the restrictions imposed by Section 203. This may make us more vulnerable to takeovers that are completed without the approval of our board of directors and/or without giving us the ability to prohibit or delay such takeovers as effectively.

Some provisions of our charter documents and Delaware law may have anti-takeover effects that could discourage an acquisition of us by others, even if an acquisition would be beneficial to our stockholders, and may prevent attempts by our stockholders to replace or remove our current management.

Provisions in our amended and restated certificate of incorporation and amended and restated bylaws, as well as provisions of Delaware law, could make it more difficult for a third party to acquire us or increase the cost of acquiring us, even if doing so would benefit our stockholders. These provisions include:

- a requirement that special meetings of stockholders be called only by the board of directors, the president or the chief executive officer;
- advance notice requirements for stockholder proposals and nominations for election to our board of directors; and
- the authority of the board of directors to issue preferred stock on terms determined by the board of directors without stockholder approval and which preferred stock may include rights superior to the rights of the holders of common stock.

These anti-takeover provisions and other provisions in our amended and restated certificate of incorporation and amended and restated bylaws could make it more difficult for stockholders or potential acquirers to obtain control of our board of directors or initiate actions that are opposed by the then-current board of directors and could also delay or impede a merger, tender offer or proxy contest involving our company. These provisions could also discourage proxy contests and make it more difficult for you and other stockholders to elect directors of your choosing or cause us to take other corporate actions you desire. Any delay or prevention of a change of control transaction or changes in our board of directors could cause the market price of our common stock to decline.

Claims for indemnification by our directors and officers may reduce our available funds to satisfy successful third-party claims against us and may reduce the amount of money available to us.

Our amended and restated certificate of incorporation and amended and restated bylaws provide that we will indemnify our directors and officers, in each case to the fullest extent permitted by Delaware law. In addition, as permitted by Section 145 of the Delaware General Corporation Law, our amended and restated bylaws and our indemnification agreements that we have entered into with our directors and officers provide that:

- We will indemnify our directors and officers for serving us in those capacities or for serving other business enterprises at our request, to the fullest extent permitted by Delaware law. Delaware law provides that a corporation may indemnify such person if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the registrant and, with respect to any criminal proceeding, had no reasonable cause to believe such person’s conduct was unlawful.
- We may, in our discretion, indemnify employees and agents in those circumstances where indemnification is permitted by applicable law.
- We are required to advance expenses, as incurred, to our directors and officers in connection with defending a proceeding, except that such directors or officers shall undertake to repay such advances if it is ultimately determined that such person is not entitled to indemnification.
- We are not obligated pursuant to our amended and restated bylaws to indemnify a person with respect to proceedings initiated by that person against us or our other indemnitees except with respect to proceedings authorized by our board of directors or brought to enforce a right to indemnification.
- The rights conferred in our amended and restated bylaws are not exclusive, and we are authorized to enter into indemnification agreements with our directors, officers, employees and agents and to obtain insurance to indemnify such persons.
- We may not retroactively amend our bylaw provisions to reduce our indemnification obligations to directors, officers, employees and agents.

To the extent that a claim for indemnification is brought by any of our directors or officers, it would reduce the amount of funds available for use in our business.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS.

(a) Recent Sales of Unregistered Securities

None.

(b) Issuer Purchases of Equity Securities

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES.

None.

ITEM 4. MINE SAFETY DISCLOSURES.

Not applicable.

ITEM 5. OTHER INFORMATION.

The Company's board of directors had previously approved the payment of executive bonuses for 2019 to certain of the Company's executive officers, including Dr. Patrick Soon-Shiong, Dr. Barry Simon, and Ms. Sonja Nelson in the following payment amounts:

- Dr. Patrick Soon-Shiong, 68.5% of target bonus, equivalent to $217,830.
- Dr. Barry Simon, 68.5% of target bonus, equivalent to $139,544.
- Ms. Sonja Nelson, 68.5% of target bonus, equivalent to $95,900.

The bonus payments are consistent with the previously disclosed terms of the employment agreements of each of the executive officers above. The bonuses were paid in cash on September 11, 2020.

ITEM 6. EXHIBITS.

The documents listed below are incorporated by reference or are filed with this Quarterly Report, in each case as indicated therein (numbered in accordance with Item 601 of Regulation S-K).

Exhibit Number	Description
10.1*	COVID Joint Development, Manufacturing and Marketing Agreement between NantKwest, Inc. and ImmunityBio, Inc., dated August 21, 2020.
10.2*	First Amendment to Facility License Agreement by and between NantWorks, LLC and NantKwest, Inc., dated September 14, 2020.
10.3*	Sublease Agreement between Altor Bioscience Manufacturing Company, LLC and NantKwest, Inc., dated September 30, 2020.
10.4*+	Offer Letter between the Company and Richard Adcock, dated October 26, 2020.
31.1*	Rule 13a-14(a) / 15(d)-14(a) Certification of Principal Executive Officer.
31.2*	Rule 13a-14(a) / 15(d)-14(a) Certification of Principal Financial Officer.
32.1**	Section 1350 Certification of Chief Executive Officer.
32.2**	Section 1350 Certification of Chief Financial Officer.
101.INS	Inline XBRL Instance Document (the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document).
101.SCH	Inline XBRL Taxonomy Extension Schema Document.
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB	Inline XBRL Taxonomy Extension Labels Linkbase Document.
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).

* Filed herewith.

** The certifications attached as Exhibits 32.1 and 32.2 that accompany this Quarterly Report, are deemed furnished and not filed with the Securities and Exchange Commission and are not to be incorporated by reference into any filing of NantKwest, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date of this Quarterly Report, irrespective of any general incorporation language contained in such filing.

\+ Indicates a management contract or compensatory plan.

SIGNATURES

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

NANTKWEST, INC.

Date: November 9, 2020

By: /s/ Richard Adcock
Richard Adcock
Chief Executive Officer
(Principal Executive Officer)

Date: November 9, 2020

By: /s/ Sonja Nelson
Sonja Nelson
Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 10.1

COLLABORATION AGREEMENT

This COLLABORATION AGREEMENT (this "**Agreement**") is entered into as of August 21, 2020 ("**Effective Date**") by and between ImmunityBio, Inc., a Delaware corporation, having a principal place of business at 9920 Jefferson Blvd., Culver City, California 90232 ("**ImmunityBio**") and NantKwest, Inc., a Delaware corporation, having a principal place of business at 2040 E. Mariposa Ave. El Segundo, CA 90245 ("**NantKwest**"). ImmunityBio and NantKwest are each referred to herein by name or, individually, as a "**Party**" or, collectively, as "**Parties**."

BACKGROUND

A. Each of ImmunityBio and NantKwest has rights in products that may be useful for preventing and/or treating infection with the SARS-CoV-2 virus, and related conditions, and desires to collaborate with the other to fund and pursue development of its products on the terms and conditions set forth in this Agreement.

B. To the extent development of an ImmunityBio product or NantKwest product is successful under this Agreement, NantKwest and ImmunityBio desire to collaborate in the manufacturing, marketing and commercialization of such products on the terms and conditions set forth in this Agreement and the Related Agreements (as defined below).

Now, therefore, in consideration of the premises and mutual covenants set forth herein, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

The following capitalized terms shall have the following meanings when used in this Agreement, in addition to terms defined elsewhere in this Agreement:

1.1 "**Act**" shall mean, as applicable, the United States Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., and/or the Public Health Service Act, 42 U.S.C. §§ 262 et seq., as such may be amended from time to time.

1.2 "**Ad5 Vaccine Product**" means ImmunityBio's proprietary viral vector product consisting of an adenovirus type 5 virus that has been genetically modified to (i) deliver genetic material encoding one or more SARS-CoV-2 Antigens, and (ii) include E1, E2b, E3 deletions to circumvent immune clearance. For clarity, the Ad5 Vaccine Product shall include fusion S or fusion S and Nucleocapsid constructs.

1.3 "**Affiliate**" means, with respect to a specified party, any entity which controls, is controlled by or is under common control with the specified party, but only for so long as such control exists. For purposes of this definition, "control" means beneficial ownership of more than fifty percent (50%) (or if less in a jurisdiction, the maximum ownership interest allowed by law) of the shares of the subject entity entitled to vote in the election of directors (or, in the case of an entity that is not a corporation, for the election of the corresponding managing authority). Notwithstanding anything to the contrary, ImmunityBio and Controlled Affiliates of Immunity Bio shall not be considered to be Affiliated with NantKwest or any Controlled Affiliates of NantKwest for purposes of this Agreement.

1.4 "**Budget**" means, individually, the budget set forth in any Plan; and "**Budgets**" means any and all such budgets, collectively.

1.5 "**Calendar Quarter**" means a period of three (3) consecutive calendar months ending on March 31, June 30, September 30 or December 31.

1.6 "**Calendar Year**" means a period of twelve (12) calendar months commencing on January 1 and ending on December 31.

1.7 "**CeNK Product**" means NantKwest's proprietary biological product consisting of an allogeneic population of ex-vivo culture-expanded human natural killer cells, which cells have been selected by pre-activation with IL-12, IL-15, and/or IL-18 to exhibit enhanced responsiveness to cytokine re-stimulation that include enhanced interferon-g production and cytotoxicity, cultured and expanded using GMP-In-A Box.

1.8 "**Change of Control**" means, with respect to a Party, any transaction or series of related transactions that constitutes: (i) the sale, lease or other transfer of all or substantially all of such Party's assets to an acquiring entity (or group of entities acting in concert); (ii) any merger, consolidation, share exchange, recapitalization, business combination or other transaction to which such Party is subject resulting in the exchange of the outstanding shares of such Party for securities or consideration issued, or caused to be issued, by an acquiring entity (or group acting in concert); or (iii) an acquiring entity (or group acting in concert) otherwise having obtained beneficial ownership of outstanding voting securities of such Party; unless in each of cases (i), (ii) and (iii) the stockholders of such Party as of the time immediately prior to the closing of such transaction or series of related transactions hold more than fifty percent (50%) of the voting control in the surviving entity in such transaction or its parent outstanding immediately after the closing of such transaction or series of transactions.

1.9 "**Clinical Trial**" means any clinical trial involving administration of a Collaboration Product to a human subject performed following IND filing for such Collaboration Product for purposes of evaluating safety, efficacy, performance or other characteristic of such Collaboration Product in order to obtain Marketing Approval, including phase I, phase II, phase III and phase IV clinical trials in the United States and their foreign equivalents, and similar clinical studies performed after Marketing Approval which are conducted primarily to continue testing of the Collaboration Product to collect information about its safety and/or efficacy in broader or various populations, its long-term safety and the side effects associated with its long-term use, or its use in additional indications other than that for which Marketing Approval is initially granted.

1.10 "**Collaboration**" means, individually and collectively, any and all activities performed by or on behalf of the Parties and their Affiliates during the term of this Agreement or a Related Agreement reasonably in connection with a Plan or a Related Agreement and directed to a Collaboration Product in the Field.

1.11 "**Collaboration Invention**" means any invention conceived solely by employees or contractors of a Party or its Affiliate, or jointly by employees or contractors of each Party or its Affiliate, in each case in the course of performing the Collaboration, regardless of the identity of the inventor(s).

1.12 "**Collaboration IP**" means all Data, Technology, and Intellectual Property Rights (including Joint Patents) to the extent generated in the course of the Collaboration that: (i) with respect to the licenses granted by NantKwest to ImmunityBio under this Agreement, are Controlled at any time by NantKwest or its Affiliate; and (ii) with respect to the licenses granted by ImmunityBio to NantKwest under this Agreement, are Controlled at any time by ImmunityBio or its Affiliate. Notwithstanding anything to the contrary, Collaboration IP excludes all Patents to the extent having claims that are entitled to an effective filing date prior to the Effective Date and all other Patents to the extent claiming an invention that is not a Collaboration Invention.

1.13 "**Collaboration Product**" means, individually, each ImmunityBio Product, each NantKwest Product, and each Combination Product; and "**Collaboration Products**" means any and all such products, collectively.

1.14 "**Combination Product**" means a product in which Treatment of one or more SARS-CoV-2 Indications is achieved using a combination of (i) at least one NantKwest Product and (ii) at least one ImmunityBio Product.

1.15 "**Commercialization**" means, with respect to a particular Collaboration Product, any and all processes and activities conducted to establish and maintain sales for such Collaboration Product in the Field, including offering for sale, selling (including activities supporting launch, reimbursement and patient access), marketing (including education, advertising activities, and engagement by sales personnel with key purchasing decision makers), promoting, storing, transporting, distributing, and importing such Collaboration Product, but shall exclude Research, Development and Manufacture. "**Commercialize**" and "**Commercializing**" shall have their correlative meanings.

1.16 "**Commercially Reasonable Efforts**" means, with respect to a Party, a commitment by or on behalf of such Party of a level of resources, efforts and urgency to Research, Develop, Manufacture and Commercialize (as applicable) a Collaboration Product applied by such Party that is commensurate with those resources, efforts and urgency used in the biotechnology industry by a company of comparable size in connection with the research, development, manufacturing and commercialization of biotechnology products of a similar stage of product life, taking into account the proprietary position of the product (including intellectual property scope, subject matter and coverage), safety, efficacy, product profile, competitiveness of the marketplace, the regulatory status and approval process, anticipated or approved labeling, present and future market potential, the probable profitability of the applicable product (including pricing and reimbursement status achieved or likely to be achieved) and other relevant factors such as technical, legal, scientific or medical factors. For clarity, it is understood that Commercially Reasonable Efforts shall be evaluated on a country-by-country basis based on factors

relevant to such country (including, size of market, availability and enforcement of market exclusivity (whether by Patent, regulatory exclusivity or otherwise), pricing strategies, likelihood of gray-market goods, applicable law, and likelihood of Marketing Approval) and is expected to change over time for particular jurisdictions, but shall not take into account (A) any other product such Party is then discovering, researching, developing, manufacturing or commercializing, alone or with one or more collaborators for or in such country or (B) the payments required to be made by such Party to the other Party pursuant to this Agreement.

1.17 "**Confidential Information**" means information disclosed by or on behalf of a Party or its Affiliate to the other Party or its Affiliate, whether disclosed before, on or after the Effective Date, that (i) if disclosed in electronic, written, or other tangible form or medium, is marked "confidential" or "proprietary;" (ii) if disclosed orally or in other intangible form, is identified as confidential or proprietary when disclosed and summarized in a writing that is marked "confidential" or "proprietary" and delivered by the Disclosing Party to the Receiving Party within thirty (30) days after initial disclosure; or (iii) regardless of the form in which it is disclosed and whether or not marked or designated as such, due to the nature of its subject matter or the circumstances surrounding its disclosure, should reasonably be understood by the Receiving Party to be confidential or proprietary. Notwithstanding anything to the contrary, Confidential Information shall not include information that the Receiving Party can establish by competent evidence:

1.17.1 was already known to the Receiving Party from a source other than the Disclosing Party at the time of its disclosure to the Receiving Party;

1.17.2 was generally available to the public or otherwise part of the public domain at the time of its disclosure to the Receiving Party;

1.17.3 became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the Receiving Party in breach of this Agreement;

1.17.4 was disclosed to the Receiving Party, other than under an obligation of confidentiality, by a Third Party who did not obtain the information directly or indirectly from the Disclosing Party or who had no obligation to the Disclosing Party not to disclose such information to others; or

1.17.5 was independently developed by the Receiving Party without use of and without reference to Confidential Information obtained from the Disclosing Party.

1.18 "**Control**" means, with respect to a particular Technology or Patent, possession at any time by the Party granting the applicable right or license under this Agreement of the power and authority to disclose and deliver the Technology to the other Party and to grant the right and license of the scope granted to such other Party in this Agreement without giving rise to: (i) a violation of any written agreement with any Third Party; or (ii) the granting Party being required to pay any royalties or other consideration to any Third Party that would not have been required had the right or license not been provided under this Agreement. "**Controlled**" and "**Controlling**" shall have their correlative meanings.

1.19 "**Controlled Affiliate**" means, with respect to a specified party, an entity that is controlled (as defined in Section 1.3) by the specified party, only so long as such control exists.

1.20 "**Copyrights**" means copyrights, copyright registrations, or any application therefor, in the U.S. or any foreign country, or any other right corresponding thereto throughout the world, including moral rights.

1.21 "**Data**" means any and all preclinical data, clinical data (including investigator reports (both preliminary and final), other data, statistical analysis, expert opinions and reports, safety and other electronic databases); in each case to the extent concerning Treatment of a SARS-CoV-2 Indication in the Field and specifically directed to, or used or generated in, the Research or Development of a Collaboration Product.

1.22 "**Development**" means, with respect to a Collaboration Product, any and all processes and activities conducted to obtain Marketing Approvals for such Collaboration Product in the Field in accordance with a Plan and Budget for the Collaboration Product, including IND enabling studies and all other activities conducted thereafter with respect to the Collaboration Product (or portion thereof), which may involve preclinical testing, toxicology, Clinical Trials, quality of life assessments, post-marketing studies, label expansion studies, regulatory affairs, and further activities related to development

of such Collaboration Product to a stage ready for Commercialization thereof. "**Develop**" and "**Developing**" shall have their correlative meanings.

1.23 "**Development Lead**" means, in each case except to the extent otherwise provided in this Agreement or otherwise approved by the JSC or the Parties in writing, (i) ImmunityBio, for the ImmunityBio Products, (ii) NantKwest, for the NantKwest Products; and (iii) the Party designated as such by the JSC or the Parties in writing for Combination Products.

1.24 "**Development Program**" means, with respect to a Collaboration Product, the activities by and behalf of both Parties in accordance with a Plan and Budget for Development of the Collaboration Product.

1.25 "**Enforcing Party**" means, with respect to a Patent or Trademark, the Party that controls enforcement and defense of the Patent or Trademark, as determined in accordance with Section 1.95.

1.26 "**FDA**" means the United States Food and Drug Administration, or any successor entity thereto.

1.27 "**Field**" means the discovery, research, development, manufacture, commercialization, use and other exploitation of Collaboration Products, in each case to the extent for Treating SARS-CoV-2 Indications in humans. Any and all other applications are excluded from the Field.

1.28 "**Financial Exhibit**" means Exhibit A.

1.29 "**GAAP**" means then-current generally accepted accounting principles in the United States as established by the Financial Accounting Standards Board or any successor entity or other entity generally recognized as having the right to establish such principles, in each case consistently applied.

1.30 "**GLP**" means the then-current good laboratory practice (or similar standards) for the performance of laboratory activities for biological products as are required by any Regulatory Authority in the applicable jurisdiction.

1.31 "**GMP**" means, with respect to a Collaboration Product, the then-current good manufacturing practice (or similar standards) for the manufacture of such Collaboration Product or any portion thereof as are required by the Regulatory Filings and approvals for such Collaboration Product in the applicable jurisdiction, including any IND, MAA or Marketing Approval.

1.32 "**GMP-In-A Box**" means ImmunityBio's proprietary Manufacturing platform consisting of an automated, closed system for cell culture and expansion (including any improved and modified forms of such Manufacturing platform made during the Term).

1.33 "**HaNK Product**" means NantKwest's proprietary biological product consisting of its NK-92 natural killer cells modified to express both (i) a high-affinity CD16 receptor and (ii) endoplasmic reticulum-restricted IL-2.

1.34 "**ImmunityBio Marks**" means Trademarks owned and Controlled by ImmunityBio or its Affiliate to the extent that ImmunityBio has approved use of the Trademarks on or for Collaboration Products in the Field under the Collaboration, including any Trademarks owned by ImmunityBio pursuant to Section 1.94.4.

1.35 "**ImmunityBio Product**" means, individually and collectively, either or both an AD5 Vaccine Product or a N-803 Product for the Field.

1.36 "**IND**" means, with respect to the United States, an investigational new drug application filed with the FDA as more fully defined in 21 C.F.R. §312.3 or, with respect to a jurisdiction other than the United States, an equivalent filing with the applicable Regulatory Authority for purposes of obtaining permission to initiate human clinical testing in such jurisdiction.

1.37 "**Intellectual Property Rights**" means any and all (i) Patents; (ii) trade secrets; (iii) Copyrights; (iv) Trademarks; and (iv) other intellectual property and proprietary rights in any jurisdiction anywhere in the world.

1.38 "**Licensed IB Technology**" means any and all Patents and Technology Controlled by ImmunityBio or its Affiliates that: (i) are reasonably necessary to Research, Develop, Manufacture, Commercialize, or otherwise exploit any Collaboration Product in the Field in accordance with a Plan, this Agreement, or the Related Agreements; (ii) are otherwise reasonably necessary to pursue the Collaboration; or (iii) have been used or incorporated by either Party pursuant to a Plan, or in its activities, concerning any Collaboration Product in the Field, whether prior to, on or after the Effective Date. For clarity, all Collaboration Inventions, and Patents for Collaboration Inventions, that are owned by ImmunityBio pursuant to Section 1.94.2 shall be deemed to be included in the Licensed IB Technology.

1.39 "**Licensed NK Technology**" means any and all Patents and Technology Controlled by NantKwest or its Affiliates that: (i) are reasonably necessary to Research, Develop, Manufacture, Commercialize, or otherwise exploit any Collaboration Product in the Field in accordance with a Plan, this Agreement, or the Related Agreements; (ii) are otherwise reasonably necessary to pursue the Collaboration; or (iii) have been used or incorporated by either Party pursuant to a Plan, or in its activities, concerning any Collaboration Product in the Field, whether prior to, on or after the Effective Date. For clarity, all Collaboration Inventions, and Patents for Collaboration Inventions, that are owned by NantKwest pursuant to Section 1.94.1 shall be deemed to be included in the Licensed NK Technology.

1.40 "**Licensed Technology**" means, with respect to the rights and licenses granted by ImmunityBio under this Agreement, the Licensed IB Technology, and with respect to the rights and licenses granted by NantKwest under this Agreement, the Licensed NK Technology.

1.41 "**Manufacturing**" means, with respect to a Collaboration Product, any and all processes and activities conducted for the GLP or GMP manufacture or other GLP or GMP production of such Collaboration Product or component thereof for Research, Development or Commercialization thereof under the Collaboration, including packaging, labeling and quality control and assurance testing, manufacturing process development, formulation development and other activities performed in support of CMC (chemistry, manufacturing and controls, or equivalent) section of an IND. For clarity, Manufacturing shall include establishing, validating and scaling-up facilities for GMP manufacture of such Collaboration Product. "**Manufacture**" shall have a correlative meaning.

1.42 "**Manufacturing Party**" means the Party with primary responsibility for Manufacturing of a specific Collaboration Product.

1.43 "**Marketing Approval**" means, with respect to a Collaboration Product in a particular jurisdiction, all approvals, licenses, registrations or authorizations necessary for the Commercialization of such Collaboration Product in such jurisdiction. An emergency use approval, or EUA, for a Collaboration Product in the United States (or similar authorization in another jurisdiction) will be considered a Marketing Approval only so long as the EUA is effective.

1.44 "**MAA**" or "**Marketing Approval Application**" shall mean, with respect to a particular Collaboration Product and jurisdiction, a marketing authorization application (including or comparable to a Biologics License Application (BLA) in the United States as defined under the Act and regulations or guidance documents promulgated thereunder) filed with the requisite Regulatory Authorities in such jurisdiction, and applying for approval to Commercialize such Collaboration Product in such jurisdiction in the Field.

1.45 "**MSC Product**" means NantKwest's proprietary biological product consisting of an allogeneic population of ex-vivo culture-expanded human mesenchymal stem cells cultured and expanded using GMP-In-A Box used for Treatment. The MSC Product shall also include any improvement, modification, derivative, optimization, or other variation to or of such product described above that is Developed or under Development pursuant to a Plan.

1.46 "**N-803 Product**" means ImmunityBio's proprietary biological product consisting of the IL-15 superagonist mutant and dimeric IL-15 RαSushi-Fc fusion protein complex known internally as of the Effective Date as "Anktiva" (formerly known as N-803).

1.47 "**NantKwest Marks**" means Trademarks owned and Controlled by NantKwest or its Affiliate to the extent that NantKwest has approved use of the Trademarks on or for Collaboration Products in the Field under the Collaboration, including any Trademarks owned by NantKwest pursuant to Section 1.94.4.

1.48 "**NantKwest Product**" means any CeNK Product, any HaNK Product, or any MSC Product for the Field.

1.49 "**Partner**" means, with respect to a Commercialization Lead, a Third Party to whom such Commercialization Lead has granted rights to market and sell a Collaboration Product on such Third Party's own behalf (not in the name of the Commercialization Lead). For clarity, Partner does not include a contractor of a Party (e.g., to perform Research, Development or Manufacture on behalf of a Party) as contemplated in Section 1.90.

1.50 "**Patent**" means any and all rights under any of the following: (i) a United States, international, regional or foreign patent, utility model, design registration, certificate of invention, patent of addition or substitution, or other governmental grant for the protection of inventions or industrial designs anywhere in the world, including any reissue, renewal, re-examination or extension thereof; and (ii) any application for any of the foregoing, including any international, provisional, divisional, continuation, continuation-in-part, or continued prosecution application.

1.51 "**Plan**" means, individually, any written plan and budget approved by the JSC for activities directed to Collaboration Products in the Field, such as for Manufacture, Research, Development, or Commercialization thereof; and "**Plans**" means any and all such plans, collectively.

1.52 "**Prosecuting Party**" means, with respect to a Patent, the Party that has control of the Prosecution and Maintenance of the Patent, as determined in accordance with Section 1.95.

1.53 "**Regulatory Authority**" means any federal, national, multinational, state, provincial or local regulatory agency, department, bureau or other governmental entity with authority over the Research, Development, Manufacture, Commercialization or other use (including the granting of Marketing Approvals) of any Collaboration Product in the Field in any jurisdiction.

1.54 "**Regulatory Filing**" means any filing or application with any Regulatory Authority with respect to a Collaboration Product, including INDs, BLA's and MAAs.

1.55 "**Related Agreements**" means (i) the Manufacturing Agreement(s) and (ii) any pharmacovigilance, and clinical safety information exchange and reporting, agreements entered into between the Parties for any Collaboration Product.

1.56 "**Research**" means any and all processes and activities conducted to: (i) research, discover, synthesize, enhance, characterize, or screen a therapeutic in the Field, including genetic engineering, protein modification or optimization, or similar activities, each in an effort to identify potential Collaboration Products in the Field; and (ii) discover, develop, characterize or enhance technologies and tools including assays, screens, software and databases reasonably to support any of the activities described in clause (i) above or to support Development. "**Research**" and "**Researching**" shall have their correlative meanings.

1.57 "**Research Program**" means activities by and behalf of both Parties in the Field, in accordance with a Plan and Budget, that are directed toward Research of potential Collaboration Products for Treating SARS-CoV-2 Indications.

1.58 "**SARS-CoV-2**" means a coronavirus that is within the definition of "SARS-CoV-2," as defined by the International Committee for Taxonomy of Viruses.

1.59 "**SARS-CoV-2 Antigen**" means a SARS-CoV-2 protein that produces a cellular and/or humoral immune response in a human.

1.60 "**SARS-CoV-2 Indication**" means (i) infection of a human with SARS-CoV-2 and (ii) any other human medical condition, state or indication that is caused by SARS-CoV-2 or for which SARS-CoV-2 is a material contributing factor, such as without limitation, COVID-19.

1.61 "**Technology**" means technical information, tangible materials, and technology relating to the subject matter of this Agreement, including (i) techniques, assays, screens, models (including animal models), inventions, methods, data, including toxicological and other Data, analytical and quality control data, Manufacturing information, and results of Research and Development and (ii) research materials, reagents, vectors and compositions of matter.

1.62 "**Term Sheet**" means the binding term sheet entered into between the Parties, titled "Covid Joint Development, Manufacturing and Marketing Agreement between NantKwest, Inc. and ImmunityBio, Inc. Binding Term Sheet," dated May 22, 2020.

1.63 "**Third Party**" means any party other than ImmunityBio, NantKwest, and their respective Affiliates.

1.64 "**Trademark**" means all trademarks, service marks, trade names, and logos, including trademark and service mark registrations and applications therefor throughout the world; and all goodwill associated with any of the foregoing.

1.65 "**Treatment**" means, with respect to a particular SARS-CoV-2 Indication, the cure, reduction, mitigation, prevention, slowing or halting the progress of, or otherwise managing such SARS-CoV-2 Indication or the symptoms thereof. "**Treat**" means to provide Treatment.

ARTICLE 2
SCOPE AND GOVERANCE OF THE COLLABORATION

1.66 Scope and Conduct of the Collaboration. Subject to the terms and conditions of this Agreement, ImmunityBio and NantKwest shall each collaborate and use Commercially Reasonable Efforts to Research, Develop, Manufacture and Commercialize Collaboration Products in the Field in accordance with this Agreement, the Related Agreements and the Plans. The JSC shall establish each Plan to provide for a commitment of resources by each Party consistent with such level of effort.

1.67 Joint Steering Committee. Promptly after the Effective Date, the Parties shall establish a joint steering committee (the "**Joint Steering Committee**" or "**JSC**") to oversee, coordinate, and govern the Collaboration and all Research, Development, Commercialization and Manufacturing efforts and activities for Collaboration Products in the Field.

1.67.1 Responsibilities. The JSC shall be responsible for overseeing, providing strategic direction to, and making key decisions regarding the Collaboration, including (i) reviewing and approving each Plan and Budget, definition of the specific Collaboration Product(s) that are the subject of each Plan, allocation of resources by each Party, and updates thereto; (ii) reviewing and approving the addition of new (or modification of) Collaboration Products under each Plan and Budget; contents and timing of Regulatory Filings; protocols and statistical analysis plans for all Clinical Trials; investigator brochure(s); Manufacturing and Commercialization forecasts and projections; and definition of co-promotion roles and responsibilities of each Party; and (iv) such other matters as are specifically identified by the JSC itself. Notwithstanding anything to the contrary, the Parties and the JSC shall not discuss or establish pricing for sales to Third Parties.

1.67.2 Membership. The JSC shall have three (3) representatives from each Party (or such other number as the Parties may agree). One member from each Party will be appointed co-chair, and at least one member from each Party shall have relevant decision-making authority. Each Party may replace its members at any time by providing notice to the other. The co-chairs shall coordinate scheduling and agendas, as well as preparation and approval of minutes, for each meeting. Minutes will not be considered definitive unless reviewed and approved by each co-chair (or its designee) in writing. If a JSC member from a Party is unable to attend or participate in a meeting, such Party may designate a substitute.

1.67.3 Meetings. The JSC shall meet at least once each Calendar Quarter or at such other frequency as the Parties agree. Additionally, each Party may call for special meetings of the JSC to resolve particular matters identified by such Party. The JSC co-chairs will be responsible for communicating scheduling to other members. Meetings may be conducted by telephone, videoconference or in person. At its meetings, the JSC shall discuss all matters reasonably requested by either JSC co-chair which, in addition to discussion necessary to effect its responsibilities under Section 1.67.1, may include: (i) coordinating or discussing exchange of Technology and Data resulting from (or as necessary for) the

Collaboration; (ii) strategies and decisions regarding Intellectual Property Rights; and (iii) any activities or issues that may adversely impact progress, costs, profits or other results under the Collaboration. Each Party shall be responsible for its own expenses related to meetings, and no Third Party personnel may attend JSC meetings unless agreed by both Parties.

1.67.4 Decision Making. Decisions of the JSC shall be made by unanimous vote, with each Party having one vote. If either Party in good faith concludes that the JSC is unable to reach consensus on a particular matter, then such Party shall have the right to refer the matter for attempted resolution by escalation as contemplated in Section 1.107. With regard to any issue on which the JSC has been unable to reach consensus, to the extent exigent circumstances require, nothing in this Agreement will preclude either Party from taking reasonable actions and precautions as reasonably necessary to mitigate liability and damages until consensus has been reached, or the issue has otherwise been resolved, in accordance with this Agreement and the Related Agreements. Decisions of the JSC shall be binding upon the Parties only if in writing and signed by an authorized representative of each Party. Notwithstanding anything to the contrary, the JSC shall not have any authority to amend, modify or waive compliance with this Agreement or any Related Agreement.

1.67.5 Subcommittees. From time to time, the JSC may establish subcommittees to oversee particular projects or activities, and such subcommittees will be constituted as the JSC approves (each, a "**Subcommittee**"). All decisions and recommendations by any Subcommittee shall be non-binding, and for advisory purposes only, except to the extent the decision or recommendation has been approved or adopted by the JSC in writing or the JSC has delegated decision making authority to the Subcommittee in writing. If the JSC has delegated decision making authority to a Subcommittee, then decisions of the Subcommittee shall be made in the same manner (and will only be binding) as is specified for the JSC in Section 1.67.4.

1.67.6 Reporting to the JSC. Each Party, and the Subcommittees, shall keep the JSC reasonably informed of progress and results of activities for which it is responsible under the Collaboration and the Plans.

1.68 Plans and Budgets. In order to establish a Research Program or Development Program, or to define the Commercialization responsibilities of each Party for a Collaboration Product, under the Collaboration, the JSC must approve a Plan and Budget for the Research, Development, or Commercialization activities, as applicable. Except to the extent otherwise determined by the JSC, (i) the initial Plan and Budget for each Research Program and Development Program for a Collaboration Product, and for Commercialization, will define the activities and Budgets of each Party thereunder for the remainder of the then-current Calendar Year; and (ii) on or before October 1 or a later date as agreed by the JSC of each Calendar Year, the JSC will establish a Plan and Budget that defines such responsibilities, activities and Budgets for each Party for the upcoming Calendar Year. The JSC may also review and update each Plan and Budget on a regular basis during each Calendar Year. Except to the extent a cost overrun is approved by the JSC, cost overruns shall be handled in accordance with the Financial Exhibit.

ARTICLE 3
RESEARCH AND DEVELOPMENT

1.69 Research and Development Programs. The JSC may from time to time establish one or more Research Programs or Development Programs directed to the Treatment of SARS-CoV-2 Indications by Collaboration Products in the Field, each by putting in place a Plan and Budget for the particular program as described in Section 1.68. Each Party shall use Commercially Reasonable Efforts to perform and complete the activities allocated to such Party under each such Plan and Budget in a collaborative manner and within the timeframes set forth therein. The Parties anticipate that the Development Lead will be primarily responsible for all activities under a Development Plan and Budget, but in all cases appropriately leveraging the personnel, infrastructure and expertise of (and informing) the other Party. Notwithstanding the foregoing, in the case of the Ad5 Vaccine Product, NantKwest will be primarily responsible for Manufacturing activities outlined in the Plans.

1.70 Development Plans and Budgets. Each Plan and Budget for Development is expected to include a reasonably detailed description of (and Budget for) all Development activities, such as for: (i) IND enabling studies; (ii) Clinical Trials; (iii) Manufacture and preparation of clinical supplies and placebo, including developing, establishing, and scaling-up Manufacturing capabilities for Commercialization; (iv) preparation and submission of MAAs; and (v) any post-approval Clinical Trials (including phase IV Clinical Trials). The Parties will mutually agree on a consistent methodology for allocation of general and administrative expenses (as defined under GAAP) that are attributable to the activities contemplated in each Plan.

1.71 Sharing Licensed Technology and Research and Development Results. Subject to the terms of this Agreement, each Party shall make available and disclose to the other Party the Technology included in its respective Licensed Technology (i.e., ImmunityBio shall disclose Technology that is Licensed IB Technology, and NantKwest shall disclose Technology that is Licensed NK Technology) to the extent reasonably necessary for the other Party to perform the activities assigned to such Party under the Plans or as otherwise reasonably requested by a Party to allow better collaboration between the Parties; provided, however, that with respect to tangible materials, the Parties shall exchange such material as determined by the JSC. Upon request, ImmunityBio and NantKwest shall use Commercially Reasonable Efforts to make available and disclose to each other all material Technology conceived, generated or created in the course of the Research and Development of Collaboration Products (and related capabilities, such as Manufacturing development and scale up) as part of the Collaboration, including all inventions that such Party believes may be Patentable, results of *in vitro* and *in vivo* studies, assay techniques and new assays, with significant discoveries or advances being communicated as soon as reasonably practical after such Technology is discovered or its significance is appreciated.

1.72 Reports; Records. Upon request, a Party shall prepare and provide to the other Party a written report that summarizes the progress of the Research and Development activities performed by or on behalf of such Party since the last such report. Each Party shall maintain records in sufficient detail as will properly reflect all work done, results achieved, and Development and other costs expended that are to be shared, in the performance of activities arising out of or relating to any Plan and Budget.

ARTICLE 4
COMMERCIALIZATION

1.73 Generally; Plans and Budgets. No later than completion of phase III Clinical Trials for a Collaboration Product in a jurisdiction, the JSC shall establish a Plan and Budget under Section 1.68 for Commercialization activities of one or both Parties for the Collaboration Product in such jurisdiction. Unless otherwise determined by the JSC, such Plans and Budgets will be updated annually in accordance with Section 1.68. Each Party shall use Commercially Reasonable Efforts to perform and complete the activities allocated to such Party under each Commercialization Plan and Budget in a collaborative manner and within the timeframes set forth therein, including to meet any milestones and sales targets and shall otherwise use Commercially Reasonable Efforts to maximize revenue from sales of Collaboration Product. The Parties will cooperate and coordinate in good faith to avoid channel conflict and achieve the most efficient use of Commercialization resources by the Collaboration worldwide, including as determined by the JSC.

1.74 Branding. All Trademarks used on any Collaboration Product, as well as the trade dress, style of packaging and the like, including the names for each Collaboration Product, shall be as approved by the JSC. All use (including placement, size, representation and the like) of Trademarks owned by a Party shall be subject to guidelines established by the JSC consistent with the Parties' own usage guidelines with respect to such Trademarks. Such guidelines may include among other things the right for the Party owning a particular mark to review all proposed uses prior to the initial usage and any material changes to such usage and reasonable quality control requirements. Each Party may upon reasonable notice to the other revise, replace or discontinue the use of any of its Trademarks.

ARTICLE 5
MANUFACTURING

1.75 Manufacturing Responsibility. NantKwest shall be designated as the Manufacturing Party for NantKwest Products and the Ad5 Vaccine Product. ImmunityBio shall be designated as the Manufacturing Party for ImmunityBio Products other than the Ad5 Vaccine Product. After the Effective Date, the Parties shall use Commercially Reasonable Efforts to document the contemplated activities to be conducted by NantKwest in connection with the direct Manufacturing of the Ad5 Vaccine Product (the "**Manufacturing Agreement**").

1.76 NantKwest Manufacturing Commitment. NantKwest shall use Commercially Reasonable Efforts to fulfill requirements for Ad5 Vaccine Product. Under certain circumstances, including taking into account manufacturing demand and capacity, the JSC may mutually agree on a reasonable reduction to NantKwest's Share of Commercialization Profits and Losses (as defined in the Financial Exhibit) of Ad5 Vaccine Product in the Field. For the avoidance of doubt, ImmunityBio shall have the right to Manufacture the Ad5 Vaccine Product for Research and Development activities in the Field or outside the Field.

1.77 Alternate Sources. As the JSC determines is appropriate based on demand or otherwise to ensure uninterrupted Manufacture and supply of each Collaboration Product, additional sources for Manufacture and supply of Collaboration Products, and for components thereof, may be established, with the ultimate decision-making authority on such matters to be ImmunityBio for the ImmunityBio Products and NantKwest for the NantKwest Products.

1.78 Manufacturing Technology Transfer. NantKwest will reasonably cooperate with ImmunityBio for technology transfer of the Ad5 Vaccine Product to one or more contract manufacturers. In the case of technology transfer required for production of the Ad5 Vaccine Product for use in the Field, the costs of such activities shall be shared in accordance with the cost sharing provisions of this Agreement. In the case of technology transfer required for production of the Ad5 Vaccine Product for all uses outside the Field, ImmunityBio will be solely responsible for the reasonable costs of the technology transfer.

ARTICLE 6
REGULATORY MATTERS; INSURANCE

1.79 Regulatory Matters.

1.79.1 Oversight by JSC. Without limiting the obligations of either Party under this Agreement or any Related Agreement, the Development, Manufacturing and Commercialization activities of the Parties involving Regulatory Filings and Regulatory Authorities, including the contents and subject matter of, and strategy for, any IND, MAA and the other matters described in this 0, shall be subject to oversight by the JSC as the JSC determines is appropriate.

1.79.2 Communication with Regulatory Authorities.

(a) Development Lead Responsibilities. Subject to oversight by the JSC and the other terms of this Agreement and the Related Agreements, the Development Lead for a Collaboration Product in a jurisdiction shall control and lead all communications and Regulatory Filings with Regulatory Authorities in that jurisdiction for that Collaboration Product, including correspondence submitted to or received from Regulatory Authorities related to Clinical Trial design, labeling, labeling changes or expansions, or other post-Marketing Approval efforts.

(b) Manufacturing Party Responsibilities. If the Manufacturing Party and Development Lead for a Collaboration Product in a jurisdiction are not the same Party, the Manufacturing Party shall use Commercially Reasonable Efforts to enable and support the Development Lead's efforts to prepare and submit IND's, MAA's, other Regulatory Filings and obtain Regulatory Approvals for Collaboration Products in the Field in such jurisdictions. All communication by the Manufacturing Party with Regulatory Authorities shall be through the Development Lead in accordance with Section 1.79.2(a); except to the extent otherwise approved by the Development Lead or JSC (e.g., to the extent direct communications between the Manufacturing Party and Regulatory Authorities are reasonably necessary, such as audit by Regulatory Authorities of Manufacturing Party facilities) and subject to Section 1.79.2(c).

(c) The Party communicating with Regulatory Authorities under the Collaboration shall provide the other Party with (i) copies of all Regulatory Filings and correspondence for the Collaboration Product with Regulatory Authorities, to the extent requested by such other Party or in accordance with guidelines otherwise established by the JSC. Where the Manufacturing Party is not the Development Lead, the Development Lead shall have the right to be present during all direct communications between the Manufacturing Party and Regulatory Authorities.

1.79.3 Clinical Safety Reporting; Pharmacovigilance. The Parties shall establish reasonable processes and procedures for tracking, reporting, and otherwise addressing adverse events and reactions, safety issues, IND safety reports and similar obligation that each Party may have to any Regulatory Authority or otherwise under applicable law relating to any Collaboration Product. Such operating procedures and any material revisions to them, shall be reasonably coordinated between the Parties across jurisdictions.

1.79.4 Other Cooperation. In addition to cooperation between the Parties as described in this Section 1.79, each Party agrees to make its personnel reasonably available, upon reasonable notice from the other Party, at their respective places of employment to consult with the other Party on issues arising out of or related to the Collaboration, any activities contemplated in this Section 1.79 or any other reasonable matter involving a Collaboration Product; including to respond to any request from any Regulatory Authority; to discuss any regulatory, scientific, technical and clinical testing issues; or otherwise.

1.80 Other Sharing of Data and Regulatory Filings. From time to time, or upon reasonable request, each Party shall provide a copy to the other Party of all previously undisclosed Data and Regulatory Filings relating to the Collaboration Products that are in its possession or control, provided that the Party providing such material shall have the right to redact any proprietary information that is not its (or the other Party's) Licensed Technology reasonably necessary for the other Party to fulfill its obligations under the Plans, for the Manufacturing Party to Manufacture a Collaboration Product in accordance with applicable law, or either Party to Develop or Commercialize Collaboration Products in accordance with this Agreement, the Related Agreements and the Plans. Without limiting the foregoing, each Party shall have the right to access, use and reference the other Party's Data and reference the other Party's Regulatory Filings for purposes of Development, Manufacture and Commercialization of Collaboration Products in the Field in accordance with this Agreement, the Related Agreements, and the Plans, including the right to file such items with Regulatory Authorities in other jurisdictions for which the other Party is the Development Lead. In all agreements with Third Parties or Affiliates involving such Data or Regulatory Filings, ImmunityBio and NantKwest, respectively, shall use Commercially Reasonable Efforts to require that such Third Parties and Affiliates to provide the other Party with access to Data and Regulatory Filings and cooperation consistent with the foregoing.

1.81 Insurance. Each Party shall obtain and maintain, during the Term and for six (6) years thereafter, comprehensive general liability insurance, including products liability insurance and coverage for Clinical Trials and Collaboration Products Manufactured or Commercialized by such Party under this Agreement or a Related Agreement, with reputable and financially secure insurance carriers, with the other Party named as an additional insured, as applicable. Such liability insurance shall be maintained on an occurrence basis to provide such protection after expiration or termination of the policy itself and/or this Agreement. Each Party shall furnish to the other Party on request certificates issued by the insurance company setting forth the amount of the liability insurance and a provision that the other Party shall receive thirty (30) days advance written notice prior to termination or material reduction to the level of coverage.

ARTICLE 7
EXCLUSIVITY AND COST AND PROFIT SHARE

1.82 Exclusivity of Efforts. Except for the Research, Development, Manufacture and Commercialization of Collaboration Products in the Field pursuant to this Agreement, the Plans and the Related Agreements, each Party agrees on behalf of itself and its Affiliates (i) not to conduct, participate in or sponsor, directly or indirectly, any Research, Development, Manufacture, Commercialization, or other activities for Collaboration Products within the Field or (ii) appoint, license or otherwise authorize any Third Party that it knows or reasonably should have known (without any duty to investigate) is conducting or intends to conduct any such activities within the Field, whether pursuant to such license, appointment, authorization or otherwise.

1.83 Sharing of Costs and Profits. From and after the Effective Date, subject to the terms and conditions of this Agreement and in accordance with the Financial Exhibit, the Parties shall (i) account for and share costs and expenses incurred, and revenues earned, that are associated with the Research, Development, Manufacture and Commercialization of Collaboration Products; and (ii) share the Commercialization Profits and Losses (as defined in the Financial Exhibit).

1.84 Payments. All amounts referenced herein are in United States dollars. All payments under this Agreement shall be made in United States dollars by wire transfer to a bank and account designated by the Party receiving such payment.

1.85 Taxes. Each Party shall bear and, subject to the terms in this Section 7.4, pay any and all taxes, duties, levies, and other similar charges (and any related interest and penalties), however designated, levied, based or imposed on that Party as a result of any payment to the other Party or as a result of any transaction pursuant to this Agreement or a Related Agreement. In the event that a Party is required to withhold and remit any tax to the revenue or tax authorities in any country regarding any payment payable to other Party, or any transaction under this Agreement or a Related Agreement, due to the laws of such country, the paying Party shall (i) deduct those taxes from the remittable payment, (ii) timely pay the taxes to the proper taxing authority, and (iii) provide proof of payment of such taxes for purposes of the cost and profit sharing calculations under the Financial Exhibit.

ARTICLE 8
LICENSE GRANTS

1.86 Research and Development Licenses for Collaboration Products

1.86.1 To ImmunityBio. NantKwest hereby grants, and shall grant, to ImmunityBio a non-exclusive worldwide license to make, use and otherwise exploit the subject matter within the Licensed NK Technology and the Collaboration IP to conduct activities assigned to ImmunityBio, in each case solely within the Field: (i) under a Research Program in accordance with a Research Plan and Budget; and (ii) to Develop and Manufacture Collaboration Products in accordance with a Development Plan and Budget.

1.86.2 To NantKwest. ImmunityBio hereby grants, and shall grant, to NantKwest a non-exclusive worldwide license to make, use and otherwise exploit subject matter within the Licensed IB Technology and Collaboration IP to conduct activities assigned to NantKwest, in each case solely within the Field (i) under a Research Program in accordance with a Research Plan and Budget; and (ii) to Develop and Manufacture Collaboration Products in accordance with a Development Plan and Budget.

1.86.3 The licenses granted under this Section 8.1 include the right to Manufacture Collaboration Products under the Plans and Budgets for Research and Development, to the extent the licensee under this Section 8.1 is the Manufacturing Party or otherwise responsible for the Manufacturing activities under the applicable Plan. No Manufacturing rights are granted under this Section 8.1 for general Commercialization of Collaboration Products for which Marketing Approval has been obtained. The exercise of rights under this Section 8.1 for a Development Program are subject to the control of the Development Lead, as contemplated in Section 1.79.2(a).

1.87 Commercial Licenses.

1.87.1 Production Manufacturing. Subject to the terms and conditions of this Agreement, the Related Agreements, and the Plans, each Party hereby grants to the other Party a non-exclusive worldwide license under the Licensed Technology and Collaboration IP, to the extent such other Party is authorized in this Agreement, a Related Agreement or by the JSC in writing, to Manufacture Collaboration Products for Commercialization of the Collaboration Products by the Parties in accordance with this Agreement, the Related Agreement and the Plans.

1.87.2 Commercialization.

(a) Commercialization by NantKwest. Subject to the terms and conditions of this Agreement, the Related Agreements, and the Plans, ImmunityBio hereby grants to NantKwest a co-exclusive, worldwide license under the Licensed IB Technology to use, sell, offer for sale, import and otherwise Commercialize Collaboration Products, in each case solely in the Field in accordance with a Plan for such Commercialization.

(b) Commercialization by ImmunityBio. Subject to the terms and conditions of this Agreement, the Related Agreements, and the Plans, NantKwest hereby grants to ImmunityBio a co-exclusive, worldwide license under the Licensed NK Technology to use, sell, offer for sale, import and otherwise Commercialize Collaboration Products, in each case solely in the Field in accordance with a Plan for such Commercialization.

(i) Commercialization Lead. With respect to each Collaboration Product, NantKwest will have primary responsibility to control the Commercialization of the NantKwest Products and ImmunityBio shall have primary responsibility to control the Commercialization of the ImmunityBio Products, each taking into account the skill, expertise, and capabilities of the other Party (each of NantKwest and ImmunityBio referred to herein as the "**Commercialization Lead**" in accordance with the above). The other Party may have co-promotion rights, all as determined by the JSC and set forth in a Plan and Budget for Commercialization for that Collaboration Product and jurisdiction.

(ii) Sublicenses. Without limiting the right to use contractors as described in this Agreement, the respective licenses granted to NantKwest and ImmunityBio herein shall include the right to grant and authorize sublicenses within the scope of the license so granted solely to the extent expressly approved by the JSC; and any attempt to otherwise grant or authorize any sublicense shall be null and void.

1.88 Rights Outside the Collaboration.

1.88.1 For ImmunityBio Products.

(a) Grant. Subject to the terms and conditions of this Agreement and the Related Agreements, including the restrictions set forth in 0.1, NantKwest hereby grants and shall grant to ImmunityBio a non-exclusive (except as set forth in Section 8.3.1(b)) worldwide, royalty-free, fully paid license, including the right to grant and authorize sublicenses, under all Collaboration IP, and other Licensed NK Technology (excluding Patents) actually disclosed by Nantkwest to ImmunityBio for purposes of the Collaboration to: (i) make, have made, use, sell, offer for sale, import and otherwise Research, Manufacture, Develop, and Commercialize the ImmunityBio Products outside of the Field; and (ii) reproduce, distribute, create derivatives of, use, and disclose (subject to reasonably confidentiality restrictions no less protective than the terms of this Agreement) the Data and non-Patent Technology licensed to ImmunityBio under this Section 8.3.1 in order to exercise its rights under clause (i) above.

(b) Limitations. Notwithstanding anything to the contrary, no rights or licenses are granted to ImmunityBio under this Section 8.3.1 under any Patents beyond those Patents jointly owned by the Parties pursuant to Section 9.1.3.

1.88.2 For NantKwest Products.

(a) Grant. Subject to the terms and conditions of this Agreement and the Related Agreements, including the restrictions set forth in 0.1, ImmunityBio hereby grants and shall grant to NantKwest a non-exclusive (except as set forth in Section 8.3.2(b)) worldwide, royalty-free, fully paid license, including the right to grant and authorize sublicenses, under all Collaboration IP, and other Licensed IB Technology (excluding Patents) actually disclosed by ImmunityBio to NantKwest for purposes of the Collaboration to: (i) make, have made, use, sell, offer for sale, import and otherwise Research, Manufacture, Develop, and Commercialize the NantKwest Products outside of the Field; and (ii) reproduce, distribute, create derivatives of, use, and disclose (subject to reasonably confidentiality restrictions no less protective than the terms of this Agreement) the Data and non-Patent Technology licensed to NantKwest under this Section 8.3.2 in order to exercise its rights under clause (i) above.

(b) Limitations. Notwithstanding anything to the contrary, no rights or licenses are granted to NantKwest under this Section 8.3.2 under any Patents beyond those Patents jointly owned by the Parties pursuant to Section 9.1.3.

1.88.3 Other. Subject to the confidentiality obligations set forth in Article 10, nothing herein shall (i) prevent NantKwest from using information generated in the Collaboration for Research, Development, Manufacture, or Commercialization of NantKwest products outside the Field (i.e., for indications other than SARS-CoV-2 Indications); (ii) prevent ImmunityBio from using information generated in the Collaboration for Research, Development, Manufacturer, or Commercialization of ImmunityBio products outside the Field (i.e., for indications other than SARS-CoV-2 Indications); or (iii) prevent either Party from using such information for general technology development purposes (i.e., to develop tools and technology that have general applicability and are not directed predominantly to activities in the Field).

1.89 Third Party Technology.

1.89.1 Nothing in this Agreement shall restrict either Party from incorporating into any Collaboration Product, or using for any Research, Development, Manufacture or Commercialization of any Collaboration Product, any Technology or Patent of a Third Party (and any such costs shall be shared in accordance with the Financial Exhibit).

1.89.2 If a Party believes that a license to or acquisition of rights under Third Party Intellectual Property Rights are reasonably necessary to Research, Develop, Manufacture or Commercialize a Collaboration Product, then it shall inform the JSC prior to entering into a license or other agreement with such Third Party regarding such Intellectual Property Rights (a "**Third Party License**").

1.89.3 Defense and Settlement of Third Party Claims. If a Third Party asserts that a Patent or other Intellectual Property Right owned or controlled by it is infringed by a Party as a result of such Party's involvement in the Manufacture, Research, Development, use, sale, importation, or other Commercialization of any Collaboration Product in accordance with this Agreement, the Related Agreements, and the Plans, then such Party shall have the right, but not the

obligation, to defend against any such assertions. In the event that a Party elects to defend against any such Third Party claims in accordance with this Section 8.4.3, such Party shall have the exclusive right to control the defense and settlement of the Third Party claims and to elect to settle such claims. The Parties shall cooperate and reasonably assist each other in any such litigation as reasonably requested without expense to the requesting Party. Each Party may join any defense brought by the other Party and settlement pursuant to this Section 8.4.3, with its own counsel. Such costs of defense by a Party shall be included in the cost share under the Collaboration, unless otherwise determined by the JSC in writing. Neither Party shall unreasonably withhold, delay, or condition consent to any settlement or to the entry of any judgment in any such case against the other Party.

1.90 Use of Contractors. Upon notice to the other Party, ImmunityBio and NantKwest shall each have the right to use the services of Third Party contractors, including contract research organizations, contract manufacturing organizations, contract sales forces and the like, to assist such Party in fulfilling its obligations and exercising its rights under this Agreement, provided that such Third Party is bound by a written agreement that is consistent with terms of this Agreement, the Related Agreements, and the Plans. No approval of the other Party shall be required.

1.91 Trademark Licenses.

1.91.1 To NantKwest. Subject to the terms and conditions of this Agreement, ImmunityBio hereby grants to NantKwest a non-exclusive license to use the Immunitybio Marks, for a Collaboration Product, to the extent reasonably necessary for NantKwest to perform its responsibilities in Manufacturing and Commercializing such Collaboration Product within the Field in accordance with a Commercialization Plan and Budget approved by the JSC for such activities. The license granted to NantKwest pursuant to this Section 8.6.1 does not include the right to grant or authorize sublicenses except to Partners that have been approved by the JSC (and subject to any guidelines and requirements of ImmunityBio applicable to the Trademarks). The ownership and all goodwill from the use of the Immunitybio Marks shall vest in and inure solely to the benefit of Immunitybio. NantKwest agrees that at no time during or after the Term will it challenge, assist others to challenge, or attempt to register any Trademarks confusingly similar to any Immunitybio Mark.

1.91.2 To ImmunityBio. Subject to the terms and conditions of this Agreement, NantKwest hereby grants to ImmunityBio a non-exclusive license to use the NantKwest Marks, for a Collaboration Product, to the extent reasonably necessary for ImmunityBio to perform its responsibilities in Manufacturing and Commercializing such Collaboration Product within the Field in accordance with a Commercialization Plan and Budget approved by the JSC for such activities. The license granted to ImmunityBio pursuant to this Section 8.6.2 does not include the right to grant or authorize sublicenses except to Partners that have been approved by the JSC (and subject to any guidelines and requirements of NantKwest applicable to the Trademarks). The ownership and all goodwill from the use of the NantKwest Marks shall vest in and inure solely to the benefit of NantKwest. ImmunityBio agrees that at no time during or after the Term will it challenge, assist others to challenge, or attempt to register any Trademarks confusingly similar to any NantKwest Mark.

1.91.3 Recordation. In those jurisdictions in which a Trademark license must be recorded, the Commercialization Lead in that jurisdiction shall be responsible for recording the Trademark licenses granted by each Party to the other under this Section 8.6, and each Party shall reasonably cooperate with the other in the preparation, execution, and filing of such documents.

1.92 No Implied Licenses. Each Party acknowledges that the rights and licenses granted under this Article 8 and elsewhere in this Agreement are limited to the scope expressly granted, and all other rights to each Party's respective Licensed Technology and other Intellectual Property Rights are expressly reserved to the Party owning the Intellectual Property Rights.

1.93 Retained Rights. For clarity, where an exclusive or co-exclusive license under Licensed Technology of a Party is granted to the other Party under this Agreement for a particular purpose, the Party granting such license retains all of its rights to its Licensed Technology for all purposes not expressly licensed or precluded. Accordingly, the licenses granted herein shall not prevent the granting Party from performing activities outside of the Field that do not otherwise violate the terms and conditions of this Agreement.

ARTICLE 9
INTELLECTUAL PROPERTY

1.94 Inventorship. Inventorship and authorship of any invention or work of authorship shall follow the rules of the U.S. Patent and Trademark Office and the laws of the United States (without reference to any conflict of law principles). Notwithstanding the terms in this Section 9.1:

1.94.1 Collaboration IP Solely Owned by NantKwest. NantKwest shall own exclusive title to Collaboration Inventions, and Patents that claim only Collaboration Inventions, in each case that relate to a NantKwest Product (or any underlying platform technology) or to any Manufacture, Research, Development, or Commercialization of a NantKwest Product, provided that such Collaboration Invention does not relate to any ImmunityBio Product or to any Manufacture, Research, Development, or Commercialization of any ImmunityBio Product.

1.94.2 Collaboration IP Solely Owned by ImmunityBio. ImmunityBio shall own exclusive title to Collaboration Inventions, and Patents that claim only Collaboration Inventions, in each case that relate to an ImmunityBio Product (or any underlying platform technology), or any Manufacture, Research, Development, or Commercialization of an ImmunityBio Product, provided that such Collaboration Invention does not relate to any NantKwest Product, or to any Manufacture, Research, Development, or Commercialization of a NantKwest Product.

1.94.3 Collaboration IP Jointly Owned by the Parties. ImmunityBio and NantKwest shall jointly own title to Collaboration Inventions, and Patents that claim only Collaboration Inventions, that are not solely owned by a Party under Sections 9.1.1 or 9.1.2. Under no circumstances shall this Section 9.1 assign to a Party title to any invention or Patent that claims any invention that was conceived prior to the Effective Date or otherwise outside of the Collaboration.

1.94.4 Trademarks. Each Party shall retain exclusive title to the Trademarks that it owns and establishes, in whole or in part, outside the Collaboration, as well as all goodwill associated with such Trademarks. Subject to the foregoing, ImmunityBio shall exclusively own title to any and all Trademarks used on or for any ImmunityBio Product (and the associated goodwill), and NantKwest shall exclusively own title to any and all Trademarks used on or for any NantKwest Product (and the associated goodwill).

1.94.5 Assignments. The assignments necessary to accomplish ownership of Collaboration Inventions, Patents that claim only Collaboration Inventions, Trademarks (and associated goodwill) as set forth in this Section 9.1 are hereby made, and shall be made, and each Party shall execute such further documents as may be reasonably necessary or appropriate, and provide reasonable assistance and cooperation, to implement the provisions of this Section 9.1 and perfect and record such assignments in all jurisdictions and under all treaties worldwide. For clarity, each Party hereby assigns, and shall assign, to the other Party a joint ownership interest in and to all Collaboration Inventions, and Patents that claim only Collaboration Inventions, that are not solely owned by a Party under Section 9.1.1 or 9.1.2. Subject to the terms of this Agreement and the Related Agreements, neither Party shall have any obligation to account to the other Party for profits or to obtain any approval of the other Party to license or otherwise exploit jointly owned Patents or trade secrets. Each Party hereby waives any such right for accounting or approval it may have under applicable laws in any country.

1.95 Prosecution, Maintenance, and Enforcement

1.95.1 General. Except as otherwise expressly provided in this Section 9.2 or approved by the JSC, each Party shall have the exclusive right to enforce, defend, prosecute and maintain all Patents and Trademarks that are solely owned by such Party. For purposes of this Section 9.2, (i) Patents that are Controlled by a Party pursuant to an in-bound exclusive license to such Party, to the extent providing such Party with the right to enforce, defend, prosecute and maintain the Patent, will be governed by this Section 9.2 as if solely owned by such Party; and (ii) Patents that are jointly owned by the Parties ("**Joint Patents**") shall be enforced, defended, prosecuted and maintained, as agreed by the Parties or determined by the JSC.

1.95.2 Prosecution and Maintenance.

(a) The Prosecuting Party shall, at its sole cost and expense (i.e., not subject to the cost and profit sharing under the Collaboration as described in the Financial Exhibit), use Commercially Reasonable Efforts to prosecute and maintain the Patents in the Licensed Technology and Collaboration IP that are solely owned by such Party or jointly owned with the other Party (including any Joint Patents) in order to obtain reasonable Patent protection for the Collaboration Products (and in the case of Joint Patents, for the inventions described in the applicable Patent), and the Research, Development, Manufacture, use and Commercialization thereof, in all jurisdictions, including without limitation filing Patent applications for material inventions arising out of the Collaboration, timely payment of all fees, timely responses to office actions, and the like. The Prosecuting Party shall reasonably consider (and reasonably take into account for Joint Patents) the other Party's comments in such prosecution and maintenance and use Commercially Reasonable Efforts to keep such other Party informed of material activities, and shall give the non-prosecuting Party a reasonable opportunity to provide comments on such prosecution and maintenance efforts, for Joint Patents.

(b) Joint Patents. If the Prosecuting Party desires to discontinue prosecution and maintenance of a Joint Patent, and if the other Party is willing to take control of the prosecution and maintenance, at its sole cost and expense, then such other Party shall become the sole owner of the Joint Patent.

1.95.3 Defense and Enforcement.

(a) The Enforcing Party shall, at its sole cost and expense (i.e., not subject to the cost and profit sharing under the Collaboration as described in the Financial Exhibit, but subject to any agreement of the Parties pursuant to Section 9.2.3(b)), use Commercially Reasonable Efforts to enforce against infringements in the Field by a Third Party in any jurisdiction, and to defend, the Patents in the Licensed Technology or Collaboration IP, that are solely owned by such Party or jointly owned by the Parties to the extent (i) the infringement (or challenge to the Patent) is having (or is reasonably expected to have) a material adverse impact on the profits, exclusivity, or marketing for Collaboration Products under the Collaboration, (ii) the enforcement or defense is reasonably expected to remedy the issue, and (iii) the expected benefit of the defense or enforcement reasonably justifies the expected cost. The non-enforcing Party shall provide the Enforcing Party with reasonable assistance and cooperation in connection with the Enforcing Party's efforts to terminate any infringement in the Field, at the non-enforcing Party's own expense, including joining such actions as a party plaintiff and taking such other actions as are required to bring, maintain or pursue such action. Without limiting the foregoing, the Enforcing Party shall have the right to join the non-enforcing Party as a party plaintiff. The Enforcing Party shall exclusively control the action and the settlement of the action, provided that it will consider in good faith the feedback and input of the non-enforcing Party. Subject to the control of the Enforcing Party, the non-enforcing Party shall have the right to participate in any action contemplated in this Section 9.2.3 to terminate an infringement in the Field with its own counsel, at its own expense. Any recovery in an action or settlement shall be reduced by the out of pocket costs and expenses of the Enforcing Party incurred in pursuing the action, and costs and expenses incurred by the non-enforcing Party that the Enforcing Party has agreed in writing to reimburse. Except to the extent otherwise agreed pursuant to Section 9.2.3(b) for Joint Patents, the Enforcing Party shall retain one hundred percent (100%) of the remainder of the recovery.

(b) Within one (1) year of filing an application for a Joint Patent in any jurisdiction (including PCT applications), the Parties will agree upon a joint defense and enforcement strategy and allocation of responsibility for the Joint Patent, which may include an allocation of responsibility for defense and enforcement among the Parties in different fields, based upon the relevance of the Joint Patents to each Party's business. The Enforcing Party, for purposes of Section 9.2.3(a), will be determined by such joint strategy. Additionally, the strategy may set forth an allocation of Recoveries (as defined in the Financial Exhibit) that is different than that set forth in Section 9.2.3(a) and may otherwise modify the terms of Section 9.2.3(a) as may be appropriate or desirable for the particular Joint Patent.

ARTICLE 10
CONFIDENTIALITY

1.96 Non-Use; Non-Disclosure. Except to the extent expressly authorized in this Agreement, a Related Agreement, or a Plan, or otherwise agreed by the Parties in writing, the Parties agree that each Party (the "**Receiving Party**") shall keep confidential and shall not publish or otherwise disclose or use for any purpose any Confidential Information furnished to it by the other Party (the "**Disclosing Party**") related to this Agreement, a Related Agreement or the Collaboration, whether furnished before, on or after the Effective Date, including Confidential Information exchanged in connection with the Term Sheet.

1.97 Authorized Use and Disclosure. Except as otherwise expressly provided in this Agreement, a Related Agreement, or a Plan, each Party may use and disclose Confidential Information of the other Party as follows: (i) under appropriate confidentiality restrictions substantially equivalent to those in this Agreement: (a) reasonably in connection with the performance of its obligations or exercise of its rights under this Agreement or a Related Agreement, including the right to grant licenses or sublicenses to the extent permitted hereunder, (b) to the extent such disclosure is reasonably necessary or useful in conducting preclinical trials or Clinical Trials under this Agreement as part of the Collaboration or (c) in complying with the terms of agreements with Third Parties existing as of the Effective Date or entered into thereafter pursuant to Section8.4; (ii) to the extent such disclosure is reasonably necessary in filing or prosecuting Patent, Copyright and Trademark applications in accordance with this Agreement or the IP Agreement; prosecuting or defending litigation related to this Agreement, a Related Agreement, or the Collaboration; complying with applicable governmental regulations with respect to performance under this Agreement, a Related Agreement, or any Plan; obtaining regulatory approval or fulfilling post-approval regulatory obligations for Collaboration Products; or otherwise required by law, provided, however, that if a Party is required by law to make any disclosure of the other Party's Confidential Information it will, except where impracticable for necessary disclosures (for example, in the event of medical emergency), give reasonable advance notice to the other Party of such disclosure requirement and, in each of the foregoing, (excluding circumstances where not reasonably possible), will use reasonable efforts to seek confidential treatment of such Confidential Information required to be disclosed; (iii) in communication with investors and advisors (including financial advisors, lawyers and accountants) on a need to know basis, in each case under conditions which reasonably ensure the confidentiality of the information, or (iv) to the extent mutually agreed to by the Parties.

1.98 Publicity

1.98.1 Confidential Terms. Each Party shall treat the terms and conditions of this Agreement and the Related Agreements as the Confidential Information of the other. Notwithstanding the foregoing, each Party may disclose the terms and conditions of this Agreement and the Related Agreements without consent (i) to advisors, investors and others on a need-to-know basis under conditions which reasonably ensure the confidentiality thereof, (ii) as required by any court or other governmental body; (iii) as otherwise required by law; (iv) in confidence to legal counsel of such parties; (v) in confidence, in connection with the enforcement of this Agreement or a Related Agreement or rights under this Agreement or a Related Agreement; (vi) in confidence, in connection with a merger, acquisition of stock or assets, proposed merger or acquisition, or the like; or (vii) as advisable or required in connection with any government or regulatory filings, including without limitation filings with the US Securities and Exchange Commission ("**SEC**"). In addition to the foregoing, with respect to complying with the disclosure requirements of the SEC in connection with any required filing with the SEC of this Agreement or a Related Agreement, the Parties shall consult with one another concerning which terms of this Agreement and the Related Agreements shall be requested to be redacted. Neither Party shall issue any press release regarding this Agreement without the prior written consent of the other Party; provided that the Parties shall cooperate reasonably to issue a press release promptly upon signing this Agreement.

1.98.2 Publications. Any manuscript or other document describing scientific or other results pertaining to the Collaboration or any Collaboration Product that either Party desires to publish or publicly disclose shall be subject to the prior review of the other Party at least thirty (30) days prior to submission and publication. If such manuscript or document contains Confidential Information of the other Party, the publishing Party agrees to remove such information from the proposed publication or disclosure to the extent requested by such other Party. Further, if the non-publishing Party believes that the publication or disclosure may unduly adversely impact such Party, the ability of either Party to seek or obtain Patent protection, or otherwise be harmful to the Collaboration or such Party's other products, then upon request within such thirty (30) day period the results shall not be so published or disclosed until the matter is resolved. If the matter cannot be resolved between the Parties by mutual agreement, it shall be resolved in accordance with Article 13 below.

Neither Party will unreasonably withhold, condition or delay approval of a publication or disclosure and approval shall not be required for disclosures required by law. Failure of the non-publishing Party to respond during such thirty (30) day period to a proposed publication or disclosure shall be deemed an approval.

ARTICLE 11
REPRESENTATIONS, WARRANTIES AND COVENANTS; INDEMNIFICATION

1.99 Representations, Warranties and Covenants. Each Party hereby represents, warrants and covenants to the other as follows:

1.99.1 It is duly organized and validly existing under the laws of its jurisdiction of incorporation and it has full corporate power and authority and has taken all corporate action necessary to enter into and perform its obligations under this Agreement and the Related Agreements (when executed).

1.99.2 This Agreement and the Related Agreements (when executed) are a legal and valid obligation binding upon such Party and enforceable in accordance with their terms. The execution, delivery and performance of this Agreement and the Related Agreements (when executed) by such Party do not and will not conflict with any other agreement, instrument or understanding, oral or written, by which it is bound, nor to its knowledge violate any law.

1.99.3 To its knowledge, other than Marketing Approvals for the Collaboration Products, no government authorization, consent, approval, license, exemption, filing or registration with any court or other governmental authority is or will be necessary for, or in connection with, the transaction contemplated by this Agreement or any Related Agreement, or for the performance by it of its obligations under this Agreement or a Related Agreement.

1.99.4 It and its Affiliates have not granted as of the Effective Date, and during the Term will not grant, any right, license, exclusivity, or other lien or encumbrance to any Intellectual Property Right that is necessary or useful for any Research, Development, Manufacture or Commercialization of any Collaboration Product in the Field in any jurisdiction which would cause such Intellectual Property Right to not be Controlled by such Party or the Affiliate for purposes of the licenses to the other Party under this Agreement or a Related Agreement; and it and its Affiliates will not, during the Term, encumber any such Intellectual Property Rights with any lien or encumbrance unless the lien or encumbrance is expressly subject to this Agreement and the Related Agreements.

1.99.5 Each Party represents and warrants that it has not been debarred or the subject of debarment proceedings by any Regulatory Authority. Neither Party shall knowingly use in connection with the Research, Development, Manufacture or Commercialization under this Agreement or any Related Agreement any employee, consultant or investigator that has been debarred or the subject of debarment proceedings by any Regulatory Authority.

1.100 Disclaimer of Warranties. EXCEPT AS SET FORTH IN THIS ARTICLE 12 OR IN A RELATED AGREEMENT, IMMUNITYBIO AND NANTKWEST EXPRESSLY DISCLAIM ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE COLLABORATION, THE LICENSED IB TECHNOLOGY, LICENSED NK TECHNOLOGY, OR ANY OTHER SUBJECT MATTER RELATING TO THIS AGREEMENT OR A RELATED AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.

1.101 Indemnification.

1.101.1 Based on Fault.

(a) ImmunityBio. Subject to Sections 11.4 and 11.5, ImmunityBio shall defend, indemnify, and hold NantKwest, its Affiliates, and their respective directors, officers, employees and agents (collectively, "**NantKwest Indemnitees**") harmless, at ImmunityBio's cost and expense, from and against any and all liabilities, losses, costs, damages, fees or expenses (including reasonable legal expenses and attorneys' fees incurred by any NantKwest Indemnitees until such time as ImmunityBio has acknowledged and assumed its indemnification obligation hereunder with respect to a claim) payable to a Third Party (collectively, "**Losses**") arising out of any claim, action, lawsuit, or proceeding (collectively, "**Claims**") brought against any NantKwest Indemnitee by such Third Party to the extent such Losses result

from (i) the gross negligence or willful misconduct of ImmunityBio, or its Affiliates or Partners, (ii) a breach by ImmunityBio of its representations, warranties, or covenants in Section 11.1 or (iii) violations of law by ImmunityBio, or its Affiliates or Partners, in performing activities under the Collaboration (each of (i), (ii), or (iii) a "**Fault**" of ImmunityBio for purposes of this Section 11.3); but excluding such Losses to the extent they arise from the Fault of NantKwest.

(b) NantKwest. Subject to Sections 11.4 and 11.5, NantKwest shall defend, indemnify, and hold ImmunityBio, its Affiliates, and their respective directors, officers, employees and agents (collectively, "**ImmunityBio Indemnitees**") harmless, at NantKwest's cost and expense, from and against any and all Losses (including reasonable legal expenses and attorneys' fees incurred by any ImmunityBio Indemnitees until such time as NantKwest has acknowledged and assumed its indemnification obligation hereunder with respect to a claim) arising out of any Claim brought against any ImmunityBio Indemnitee by such Third Party to the extent such Losses result from (i) the gross negligence or willful misconduct of NantKwest, or its Affiliates or Partners, (ii) a breach by NantKwest of its representations, warranties, or covenants in Section 11.1; or (iii) violation of law by NantKwest, or its Affiliates or Partners, in performing activities under the Collaboration (each of (i), (ii) or (iii), a "**Fault**" of NantKwest for purposes of this Section 11.3); but excluding such Losses to the extent they arise from the Fault of ImmunityBio.

1.101.2 Joint Fault. If any Losses occur as a result of the joint Fault of NantKwest and ImmunityBio, absent the applicability of Section 11.3.3, liability for such Losses under Sections 11.3.1 shall be apportioned between NantKwest and ImmunityBio according to the percentage of Fault of NantKwest and ImmunityBio. This Section 11.3.2 shall apply even under circumstances where a Third Party bears a percentage of the fault.

1.101.3 No Fault. Any Losses by either Party arising out of any product liability or personal injury Claims brought against either Party's Indemnitees by a Third Party that result from the use by a Third Party of a Collaboration Product, to the extent such Losses cannot be allocated to a Party pursuant to Section 11.3.1 or 11.3.2, shall be deducted from the applicable ImmunityBio Product Revenues and NantKwest Product Revenues under the Financial Exhibit.

1.102 Claim for Indemnification. Whenever any claim shall arise for indemnification under this Section 11.3, the ImmunityBio Indemnitees or NantKwest Indemnitees entitled to indemnification (the "**Indemnified Party**") shall promptly notify the other Party (the "**Indemnifying Party**") of the Claim and, when known, the facts constituting the basis for the Claim. The Indemnifying Party shall promptly assume defense of the Claim at its own expense and shall have exclusive control of the defense and settlement of the Claim. The Indemnifying Party shall not be responsible for any cost, expense, or settlement incurred without its prior written consent, not to be unreasonably withheld, delayed or conditioned. In no event shall the Indemnifying Party settle any Claim without the prior written consent of the Indemnified Party if such settlement does not include a release from all liability based upon such Claim. For the avoidance of doubt, except as set forth in Section 11.3.3, any Losses covered by the provisions of this Section 11.3 shall be the sole responsibility of the Indemnifying Party and shall not be shared by the Parties pursuant to this Agreement, including the Financial Exhibit.

1.103 Reduction of Indemnity Payments. Notwithstanding anything in this Section 11.3 to the contrary, an indemnity payment owed by one Party to the other Party pursuant to this Section 11.3 shall be reduced by all amounts actually received by the Indemnified Party under insurance policies in connection with the Claim for which the indemnification is provided (less all deductibles, costs of collection, and other expenses incurred in connection therewith).

ARTICLE 12
TERM AND TERMINATION

1.104 Term. This Agreement will commence upon the Effective Date and, except to the extent earlier terminated pursuant to this Article 12, or as otherwise may be agreed by the Parties in writing, shall continue in full force and effect for a period of five (5) years (together with any renewal thereof, the "**Term**"). The Term is renewable upon mutual agreement by the Parties for an additional five (5) years. Notwithstanding the expiration of the Term, the terms of this Agreement shall survive with respect to any Collaboration Product that has received Marketing Approval, or for which a Marketing Approval Application has been submitted, at the time of expiration until the later of (i) the expiration, on a jurisdiction by jurisdiction basis, of the Patent covering such Collaboration Product or (ii) ten (10) years after the expiration, on a jurisdiction by jurisdiction basis, of any period of regulatory exclusivity for such Collaboration Product.

1.105 Termination.

1.105.1 Breach. In the event of a material breach of this Agreement, the non-breaching Party shall have the right to terminate this Agreement by written notice to the breaching Party specifying such breach in reasonable detail. Subject to Article 13, such notice shall become effective sixty (60) days from receipt thereof by the breaching Party unless: (i) the breaching Party has cured such breach, or (ii) the breaching Party is using Commercially Reasonable Efforts to cure such breach, continues to do so, and does in fact cure such breach within one hundred and eighty (180) days from receipt of such notice.

1.105.2 Bankruptcy/Insolvency. A Party may terminate this Agreement if, at any time, the other Party (i) files in any court or other body of competent jurisdiction a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee for that Party or its assets, (ii) is served with an involuntary bankruptcy or insolvency petition against it, which petition has not been dismissed within sixty (60) days, (iii) is the subject of any dissolution or liquidation proceeding, or (iv) materially fails to pay its debts as they mature.

1.105.3 Change of Control. A Party that undergoes a Change of Control shall provide written notice of the Change of Control to the other Party within ten (10) days after the closing thereof. Such other Party shall have the right to terminate this Agreement upon thirty (30) days written notice to the other as a result of such Change of Control, provided that such notice must not be given more than ninety (90) days after the later to occur of the Change of Control in question and the receipt of such notice.

1.106 Effect of Termination. Except as otherwise provided in this Article 12, all licenses shall terminate upon expiration or termination of this Agreement. In the event of a termination or expiration of this Agreement, the following terms shall apply from and after the date of termination:

1.106.1 Accrued Obligations. Expiration or termination of this Agreement for any reason shall not release either Party from any obligation or liability which, at the time of such expiration or termination, has already accrued to the other Party or which is attributable to a period prior to such expiration or termination.

1.106.2 Winding Down of Operations; Transition Matters. For a period of up to six (6) months after termination or expiration of this Agreement, each Party agrees to cooperate reasonably with the other and designee(s) of the other in order to achieve a reasonably smooth, orderly and prompt wind-down and/or transition of Research, Development and Commercialization of each Collaboration Product, including in order to carry out and achieve the effects of termination specified in this Section 12.3. Without limiting the foregoing, the Parties will cooperate reasonably to enable ImmunityBio to establish and have a direct Third Party source of Manufacture and supply for all ImmunityBio Products and associated cell lines and raw materials and to enable NantKwest to establish and have a direct Third Party source of Manufacture and supply for all NantKwest Products and associated cell lines and raw materials. Such cooperation will include transfer of cell lines, reagents and other biological materials as reasonably necessary for such purpose. To the extent a Party will commence or assume any Research, Development, Manufacture or Commercialization of any Collaboration Product that had been handled by the other Party, such other Party will provide reasonable cooperation, support and assistance to reasonably enable such result, including through delivery of know-how, materials and other Technology and proper transition of any ongoing Clinical Trials. The Parties will discuss and determine in good faith whether there should be any compensation by one Party to the other as a result of any capital equipment that may have been purchased under the Collaboration. Without limiting the foregoing, to the extent that this Agreement otherwise terminates or expires, the following shall apply:

(i) All Plans and Budgets will be reasonably wound down and terminated by the Parties in accordance with Section 1.106.1.

(ii) All Regulatory Filings and Marketing Approvals for ImmunityBio Products, if not already owned by ImmunityBio or its designee, shall be promptly transferred by NantKwest, its Affiliates, and Partners to ImmunityBio or its designee (to the extent allowed by law and, if not allowed by law, Nantkwest shall use Commercially Reasonable Efforts to enable ImmunityBio and its designees to leverage and reference such Regulatory Filings and Marketing Approvals to the extent reasonably possible).

(iii) All Regulatory Filings and Marketing Approvals for NantKwest Products, if not already owned by NantKwest or its designee, shall be promptly transferred by ImmunityBio, its Affiliates, and Partners to NantKwest or its designee (to the extent allowed by law and, if not allowed by law, ImmunityBio shall use Commercially Reasonable Efforts to enable NantKwest and its designees to leverage and reference such Regulatory Filings and Marketing Approvals to the extent reasonably possible).

(iv) Each Party, and its Affiliates and Partners shall, no later than the end of the wind-down period contemplated in this Section 12.3.2, return or cause to be returned to the other or, at the option of such other Party destroyed, all Confidential Information of the other in documentary, electronic, or other tangible form, and all substances, compositions, and other material in any medium, delivered or provided by such other Party; as well as all copies and derivatives thereof.

(v) To the extent desired by either Party, the Parties will record termination of Trademark licenses under Section 1.91.3.

(vi) In all cases the Parties will retain safety reporting processes and procedures sufficient to enable each Party to continue, after any termination or expiration of this Agreement, to comply with applicable law.

1.106.3 Effect of Termination on Sublicenses. The Parties will reasonably cooperate and address all agreements with Third Parties that were entered into by a Party or its Affiliate for purposes of the Collaboration, which may include terminating the agreements, using Commercially Reasonable Efforts to transfer them from one Party to the other, paying fees to terminate agreements, or the like; it being agreed that the Parties will equally bear the burden and responsibility of winding down and/or otherwise resolving such third Party agreements so long as the agreement was approved by the JSC when it was entered into by the Party.

1.106.4 Survival. Articles 8 (to the extent payments are due or payable after termination or expiration), 10, 11, 13 and 14 and Sections 6.3, 8.4.3, 8.7, 8.8, 9.2, 11.2, 11.3, 12.3, shall survive expiration or termination of this Agreement for any reason. Except as otherwise provided in this Article 12, all rights and obligations of the Parties under this Agreement shall terminate upon expiration or termination of this Agreement for any reason.

ARTICLE 13
DISPUTE RESOLUTION

1.107 Disputes. Except as otherwise provided herein, any disputes relating to the Collaboration, this Agreement or any Related Agreement shall be first submitted to the JSC for resolution. The JSC will hear the disputed matter and attempt to reach a decision with respect to such disputed matter in as timely a manner as possible, and in all cases within thirty (30) days after the submission by either Party of the disputed matter to the JSC. If the JSC is unable to resolve any dispute within such thirty (30) day period, then each Party may, by written notice to the other, have such dispute referred to the senior management of each Party for attempted resolution by good faith negotiations within ten (10) business days after such notice of escalation is received. If the senior management of the Parties are unable to resolve, then such matter shall be subject to resolution under Section 13.2 and 13.3 (or in accordance with any other applicable dispute resolution procedure that has been established by the JSC).

1.108 Arbitration. Except for disputes, controversies or claims relating to the matters specified in Section 13.3, any dispute, controversy or claim arising under, out of or in connection with this Agreement or a Related Agreement, including any subsequent amendments, or the validity, enforceability, construction, performance or breach of this Agreement or a Related Agreement, which is not resolved under Section 13.1 shall be finally settled by arbitration in accordance with the then current Commercial Arbitration Rules of the JAMS by one (1) arbitrator selected in accordance with such rules. Such arbitration shall be held in Los Angeles County, California, and the proceedings and all pleadings, filings, written evidence, decisions and other relevant documents shall be in English. Any written evidence in a language other than English shall be submitted with an English translation. Any final decision issued in the arbitration shall be binding and conclusive upon the Parties to this Agreement and the Related Agreements and may be entered as a final judgment by any court of competent jurisdiction. Each Party shall bear its own costs in connection with the foregoing arbitration, and the fees and costs of the arbitrator and the proceeding shall be shared equally by the Parties.

1.109 Provisional Remedies. Nothing in this Agreement or any Related Agreement shall limit the right of either Party to seek or obtain in any court of competent jurisdiction any equitable or interim relief or provisional remedy, including injunctive relief. Seeking or obtaining such equitable or interim relief or provisional remedy in a court shall not be deemed a waiver of the agreement to arbitrate under Section 13.2. For clarity, any equitable remedies shall be cumulative and not exclusive and are in addition to any other remedies that either Party may have under this Agreement, a Related Agreement or applicable law.

ARTICLE 14
MISCELLANEOUS

1.110 Governing Law. This Agreement and any dispute arising from the performance or breach hereof shall be governed by and construed and enforced in accordance with the laws of the State of California, without reference to conflicts of laws principles.

1.111 Assignment. This Agreement shall not be assignable by either Party to any Third Party without the written consent of the other Party and any such attempted assignment shall be void. Notwithstanding the foregoing, subject to the right of a Party to terminate under Section 12.2.3 for Change of Control, each Party may assign this Agreement, without the written consent of the other Party, to an Affiliate or to an entity that acquires all or substantially all of the business or assets of such Party to which this Agreement pertains (whether by merger, reorganization, acquisition, sale or otherwise) and agrees in writing to be bound by the terms and conditions of this Agreement. No assignment or transfer of this Agreement shall be valid and effective unless and until the assignee/transferee agrees in writing to be bound by the provisions of this Agreement. Any assignment or transfer in violation of the foregoing shall be void. Subject to the foregoing, the terms and conditions of this Agreement shall be binding on and inure to the benefit of the successors and permitted assigns of the Parties.

1.112 Limitation on Liability. EXCEPT FOR BREACH OF 0, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE), EVEN IF SUCH PARTY WAS ADVISED OR WAS OTHERWISE AWARE OF THE LIKELIHOOD OF SUCH DAMAGES.

1.113 Notices. Any notice required or permitted under this Agreement or required by law will be delivered by (as elected by the party giving such notice): (a) hand; (b) postage-prepaid first-class, registered or certified mail, return receipt requested; (c) a prepaid, nationally recognized, courier service; or (d) facsimile or electronic mail, but only if subsequently confirmed by a duplicate delivered by one of options (a), (b), or (c). All notices will be deemed delivered on (a) the date of receipt (or if delivery fails due to some failure by the recipient, the date of tender). Notices to each Party will be directed to the Party's address and contact information as set forth below; provided that each Party may change its address for notice by providing written notice to the other Party at any time.

If to ImmunityBio,

addressed to: 9920 Jefferson Blvd.
Culver City, CA 90232
Attention: CFO
Telephone: (310) 853-7888

with copy to: 9920 Jefferson Blvd.
Culver City, CA 90232
Attn: General Counsel
Telephone: (310) 853-7888

If to NantKwest,

addressed to: 2040 E. Mariposa Ave.
El Segundo, CA 90245
Attention: President
Telephone: (855) 797-9277

with copy to: 2040 E. Mariposa Ave.
El Segundo, CA 90245
Attn: General Counsel
Telephone: (855) 797-9277

1.114 Waiver. Neither Party shall be considered to have waived or released any of its rights or interests unless the waiver is by such Party in writing. The failure of either Party to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition. No waiver by either Party of any condition or term in any one or more instances shall be construed as a continuing waiver of such condition or term or of another condition or term.

1.115 Severability. If any provision hereof should be held invalid, illegal or unenforceable in any jurisdiction, the Parties shall negotiate in good faith a valid, legal and enforceable substitute provision that most nearly reflects the original intent of the Parties, and all other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to carry out the intentions of the Parties as nearly as may be possible. Such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of such provision in any other jurisdiction.

1.116 Entire Agreement. This Agreement, including its Exhibits, sets forth the entire agreement and understanding between the Parties with regard to the subject matter hereof and supersedes and terminates all prior and contemporaneous agreements and understandings between the Parties concerning such subject matter, including the Term Sheet. There are no covenants, promises, agreements, warranties, representations, conditions or understandings, either oral or written, between the Parties regarding such subject matter, other than as set forth in this Agreement.

1.117 Amendments. No alteration, amendment, change or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by authorized officers of both Parties.

1.118 Relationship of the Parties. The relationship of ImmunityBio and NantKwest established by this Agreement is that of independent contractors. This Agreement shall not be construed to establish an employment, agency, partnership, or joint venture relationship. Except as may be specifically provided herein, neither Party shall have any right, power or authority, nor shall they represent themselves as having any authority, to assume, create or incur any expense, liability or obligation, express or implied, on behalf of the other Party, or otherwise act as an agent or representative for the other Party for any purpose.

1.119 Further Assurances. At any time or from time to time after the date hereof, the Parties agree to cooperate with each other, and at the request of any other Party, to execute and deliver any further instruments or documents and to take all such further action as the other Party may reasonably request in order to evidence or effectuate the consummation of the transactions contemplated hereby and to otherwise carry out the intent of the Parties hereunder.

1.120 Force Majeure. Except with respect to payment of money, neither Party shall be liable to the other for failure or delay in the performance of any of its obligations under this Agreement for the time and to the extent such failure or delay is caused by earthquake, riot, civil commotion, war, terrorist acts, strike, flood, epidemic, pandemic, or governmental acts or restriction, or other cause that is beyond the reasonable control of the respective Party. The Party affected by such force majeure will provide the other Party with reasonable notice of any such event and use Commercially Reasonable Efforts to overcome the difficulties created thereby and resume performance as soon as practicable. If performance is delayed or suspended for a period of more than one hundred eighty (180) days, the Parties and the JSC will consult and determine an equitable solution, including possibly mutual termination of this Agreement.

1.121 Third Party Beneficiaries. All rights, benefits and remedies under this Agreement are solely intended for the benefit of ImmunityBio and NantKwest, and no Third Party shall have any rights or remedies based upon this Agreement.

1.122 Interpretation. The captions and headings to this Agreement are for convenience only and are to be of no force or effect in construing or interpreting any of the provisions of this Agreement. Unless context otherwise clearly requires, as used in this Agreement: (i) the words “include” or “including” mean “including but not limited to” or “including without limitation;” (ii) the word “notice” means notice in writing (whether or not specifically stated) and shall include notices, consents, approvals and other written communications contemplated under this Agreement; (iv) the words “hereof,” “herein,” “hereby” and similar words refer to this Agreement as a whole (including any Exhibits) and not to any portion of this Agreement; (v) provisions that require that a Party, the Parties or any committee or team hereunder “agree,” “consent” or “approve” or the like shall require that such agreement, consent or approval be specific and in writing, whether by written agreement, letter, approved minutes or otherwise; and (vi) references to any specific law or article, section or other division thereof shall be deemed to include the then-current amendments thereto or any replacement law thereof.

1.123 Counterparts. This Agreement may be executed in two counterparts, each of which shall be deemed an original, and all of which together, shall constitute one and the same instrument.

[The remainder of this page intentionally left blank; the signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals by their duly authorized representatives as of the date and year first above written.

IMMUNITYBIO, INC.

By: /s/ David Sachs
Name: David Sachs
Title: Chief Financial Officer

NANTKWEST INC.

By: /s/ Steven Yang
Name: Steven Yang
Title: General Counsel

Exhibit 10.2

FIRST AMENDMENT TO FACILITY LICENSE AGREEMENT

THIS FIRST AMENDMENT TO FACILITY LICENSE AGREEMENT (this "First Amendment"), dated as of September 14, 2020, is made and entered into by and between NANTWORKS, LLC, a Delaware limited liability company ("Licensor"), and NANTKWEST, INC., a Delaware corporation ("Licensee"), with respect to the following facts:

A. Licensor and Licensee entered into that certain Facility License Agreement dated November 6, 2015, made effective as of May 22, 2015 (the "License Agreement"), whereby Licensor licensed to Licensee and Licensee licensed from Licensor certain office and lab space on the ground floor containing approximately 9,500 square feet located in that certain building commonly known as 9920 Jefferson Boulevard, Culver City, California.

B. By this First Amendment, Licensee has requested, and Licensor has agreed, to amend the License Agreement as provided herein.

C. Unless otherwise defined herein, capitalized terms as used herein shall have the meanings ascribed to them in the License Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. License Agreement Extension. The term of the License Agreement shall be extended through December 31, 2021 (the "Extended Term"). All references to the "Term" in the License Agreement shall include the Extended Term, as modified hereby. After the expiration of the Term, including any Option Term, this License shall automatically renew on a month-to-month basis, terminable by either Licensee or Licensor with at least thirty (30) days' prior written notice to the other party.

2. Option. Licensee shall have the one-time option (but not the obligation) to extend the Term through December 31, 2022 (the "Option"). In order to exercise the Option, Licensee must deliver to Licensor an irrevocable written notice of exercise during the period commencing April 1, 2021 and ending June 30, 2021 (the "Option Exercise Period"). If Licensee timely exercises the Option during the Option Exercise Period, then the Term shall automatically be extended through December 31, 2022 (the "Option Term"). If Licensee does not properly exercise the Option during the Option Exercise Period, then the Option will lapse and be of no further force or effect and the Term, subject to the month-to-month automatic renewals, will be scheduled to expire on December 31, 2021.

3. Base Rent for Extended Term. Notwithstanding anything to the contrary in the License Agreement, commencing on the first day of the Extended Term and continuing through December 31, 2021, the License Fee shall increase by three percent (3%) to $54,485.88. If Licensee validly exercises the Option Term or if the License shall continue on a month-to-month basis, the License Fee shall increase by three percent (3%) annually commencing on January 1 of each and every year of the Term.

4. Miscellaneous.

(a) *Ratification*. Except as specifically amended or modified by this First Amendment, the License Agreement shall remain in full force and effect and is hereby ratified and confirmed.

(b) *Severability of Provisions*. If any provision of this First Amendment is for any reason held to be invalid, illegal or unenforceable in any respect, such provision shall not affect the validity, legality or enforceability of any other provision of this First Amendment.

(c) *Entire Agreement; Amendments and Waivers.* This First Amendment constitutes the entire agreement between Licensee and the Licensor pertaining to the subject matter contained herein and supersedes any and all previous agreements between the parties hereto regarding the subject matter hereto. Any provision of this First Amendment may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the party asserted to be bound thereby, and then such amendment or waiver shall be effective only in the specific instance and specific purpose for which given.

(d) *Authority*. The individuals signing this First Amendment on behalf of each party represent and warrant that such individual has the authority under the company's governing documents to execute and deliver this First Amendment in the name of and on behalf of the company.

(e) *Successors and Assigns.* The License Agreement, as amended hereby, shall apply to and bind Licensor and Licensee and their respective successors and assigns.

(f) *Conflicts*. Notwithstanding anything to the contrary in the License Agreement, in the event of a conflict or inconsistency between the terms of the License Agreement and the terms and conditions of this First Amendment, the terms and conditions set forth in this First Amendment shall control and shall be deemed to supersede the printed terms of the License Agreement. Whether or not specifically amended by this First Amendment, all of the terms and provisions of the License Agreement are hereby amended to the extent necessary to give effect to the purpose and intent of this First Amendment.

(g) *Counterparts*. This First Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. In order to facilitate the agreements contemplated by this First Amendment, signatures transmitted by facsimile or via e-mail in a "PDF" format may be used in place of original signatures. Each party intends to be bound by such party's facsimile or "PDF" format signature on this First Amendment, is aware that the other parties are relying on such party's facsimile or "PDF" format signature, and hereby waives any defenses to the enforcement of this First Amendment based upon the form of signature.

[*REMAINDER OF PAGE INTENTIONALLY BLANK]*

IN WITNESS WHEREOF, the parties hereto have duly executed this First Amendment as of the date first written above.

LICENSOR:

NANTWORKS, LLC
a Delaware limited liability company

By: /s/ Robert Morse
Name: Robert Morse
Title: CFO

LICENSEE:

NANTKWEST, INC.,
a Delaware corporation

By: /s/ Sonja Nelson
Name: Sonja Nelson
Title: CFO

SUBLEASE AGREEMENT

This Sublease Agreement ("**Sublease**"), dated as of September 30, 2020, but made effective as of August 1, 2020 (the "**Effective Date**"), is entered into between ALTOR BIOSCIENCE MANUFACTURING COMPANY, LLC, a Delaware limited liability company ("**Sublandlord**") and NANTKWEST, INC., a Delaware corporation ("**Subtenant**" and, together with Sublandlord, collectively referred herein as the "**Parties**" or individually as a "**Party**").

RECITALS

WHEREAS, Sublandlord is the tenant under that certain lease agreement dated February 1, 2017 ("**Primary Lease**") with DULEY ROAD, LLC, a California limited liability company ("**Prime Landlord**"); and

WHEREAS, pursuant to the Primary Lease, Sublandlord leased that certain building commonly known as Building #3 at 400 Duley Road, El Segundo, California ("**Building**") comprised of approximately 11,980 rentable square feet ("**Demised Premises**") within the multi-building commercial project located on approximately 3.66 acres of land in the City of El Segundo ("**Project**"); and

WHEREAS, Sublandlord desires to sublease a portion of the Demised Premises leased under the Primary Lease to Subtenant, and Subtenant desires to sublease a portion of the Demised Premises from Sublandlord, in accordance with the terms and conditions of this Sublease.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Demise.

Sublandlord hereby leases to Subtenant, and Subtenant hereby leases from Sublandlord, a portion of the Demised Premises located on the first floor of the Building, and Subtenant shall have the right to use in common, with the Sublandlord, certain lab space and common areas located on the second floor of the Building, all as depicted on Exhibit A, attached hereto (collectively, the "**Subleased Premises**"). The parties agree that the Subleased Premises comprises approximately 6,901 rentable square feet.

2. Term; Options.

(a) The term of this Sublease ("**Term**") shall commence on August 1, 2020 ("**Sublease Commencement Date**"), and shall expire at midnight July 31, 2022 ("**Sublease Expiration Date**"), unless sooner terminated or cancelled in accordance with the terms and conditions of this Sublease.

(b) Subject to the terms hereof, Subtenant shall have the option to extend the initial Term for one (1) year (the "**Option Term**") under the terms of this Sublease. In order to exercise the Option Term, Subtenant shall (i) not be in default of this Sublease and (ii) deliver to Sublandlord an irrevocable written notice to extend on or before the sixtieth (60^{th}) day prior to the Sublease Expiration Date If Subtenant provides a timely written notice, then the Term shall be extended an additional one (1) year. The monthly base rent payable during the Option Term shall be as set forth in Section 4. If Tenant does not exercise the Option Term within the relevant period, then the Option Term shall immediately lapse and be of no further force or effect and this Sublease will automatically expire on the then scheduled Sublease Expiration Date.

(c) If for any reason the term of the Primary Lease is terminated prior to the Sublease Expiration Date, this Sublease shall terminate on the date of such termination and Sublandlord shall not be liable to Subtenant for such termination.

3. Permitted Use.

Subtenant shall use and occupy the Subleased Premises solely in accordance with, and as permitted under, the terms of the Primary Lease and for no other purpose.

4. Payment of Base Rent, Additional Rent, Leasehold Improvements, and Parking.

(a) Throughout the Term of this Sublease, Subtenant shall pay to Sublandlord fixed monthly base rent ("**Base Rent**") as set forth below:

Date	Base Rent
August 1, 2020 – October 31, 2020	$25,064
November 1, 2020 - October 31, 2021	$25,815
November 1, 2021 - July 31, 2022	$26,589

If the Option Term is exercised:

Option Term	Base Rent
August 1, 2022 – October 31, 2022	$26,589
November 1, 2022 - July 31, 2023	$27,388

(b) Subtenant shall pay to Sublandlord the first monthly installment of Base Rent at the time of execution and delivery of this Sublease by Subtenant to Sublandlord and shall pay all other monthly installments of Base Rent on or before the first day of each month during the Term.

(c) In addition to Base Rent, commencing on the Sublease Commencement Date and continuing throughout the Term of this Sublease, Subtenant shall pay to Sublandlord:

(i) 58% of Operating Expenses (as defined in the Primary Lease) for the Demised Premises, which Operating Expenses may be payable to Sublandlord in monthly installments based on estimates provided by Sublandlord and shall be due before the first day of each month during the Term;

(ii) 58% of Real Property Taxes (as defined in the Primary Lease) for the Demised Premises, which Real Property Taxes may be payable to Sublandlord in monthly installments based on estimates provided by Sublandlord and shall be due before the first day of each month during the Term;

(iii) an equipment license fee for the use of the furniture, fixtures and equipment (including computers and lab equipment) within the Subleased Premises as listed on Exhibit B, attached hereto (the "**Equipment**") in the amount of $10,635 per month for each month of the Term;

(iv) a leasehold improvement fee which shall reimburse Sublandlord for the certain amortized costs and expenses previously incurred by Sublandlord for the build-out and construction of the Subleased Premises, which amount shall be $141,789 per month for each month of the Term;

(v) all costs and expenses incurred by Sublandlord in connection with its subleasing of the Subleased Premises to Subtenant; and

(vi) all amounts due under this Section 4(b), and all amounts due and payable by Sublandlord under the Primary Lease due or attributable to the Subleased Premises or the actions or omissions of Subtenant (collectively, "**Additional Rent**").

(d) All Base Rent and Additional Rent shall be due and payable without demand therefor unless otherwise designated by Sublandlord and without any deduction, offset, abatement, counterclaim, or defense. The monthly installments of Base Rent and Additional Rent payable on account of any partial calendar month during the Term of this Sublease, if any, shall be prorated.

(e) Commencing on the Sublease Commencement Date, Subtenant shall have the right to use 17 unreserved parking spaces within the Project and shall pay an aggregate amount of $1,275 per month (calculated at the rate of $75.00 per space per month) for the use of such parking spaces.

5. Security Deposit.

Simultaneously with the execution and delivery of this Sublease, Subtenant shall deposit with Sublandlord a security deposit ("**Security Deposit**") in the amount of $357,526 as security for the full and faithful performance by Subtenant of Subtenant's obligations hereunder. The Security Deposit may be in the form of cash or a clean, stand-by, irrevocable letter of credit, in form and substance and issued by and drawn on a bank satisfactory to Sublandlord.

6. Surrender; Restoration and Removal of Trade Fixtures.

(a) No act or thing done by Sublandlord or any agent or employee of Sublandlord during the Term shall be deemed to constitute an acceptance by Sublandlord of a surrender of the Subleased Premises unless such intent is specifically acknowledged in writing by Landlord. The delivery of keys to the Subleased Premises to Sublandlord or any agent or employee of Sublandlord shall not constitute a surrender of the Subleased Premises or effect a termination of this Sublease, whether or not the keys are thereafter retained by Sublandlord, and notwithstanding such delivery Subtenant shall be entitled to the return of such keys at any reasonable time upon request until this Sublease shall have been properly terminated.

(b) Prior to or upon the expiration of the Term, or upon any earlier termination of this Sublease, Subtenant shall, subject to the provisions of this Article 6, (i) quit and surrender possession of the Subleased Premises to Sublandlord in as good order and condition as when Subtenant took possession, reasonable wear and tear excepted, and (ii) restore the Subleased Premises, at Subtenant's sole cost and expense, to the same condition, including installing any equipment removed therefrom, as existed immediately prior to the Sublease Commencement Date, which restoration work shall include, but not be limited to those items set forth on Exhibit C, attached hereto. The obligations of Subtenant hereunder shall survive the expiration or earlier termination of this Sublease.

(c) In addition, prior to or upon the expiration of the Term, Subtenant shall, without expense to Sublandlord, remove or cause to be removed from the Subleased Premises all debris and rubbish, and all of Subtenant's personal property items and equipment and any trade fixtures, as Sublandlord may, in its sole discretion, require to be removed, and Subtenant shall repair at its own expense all damage to the Subleased Premises and Building resulting from such removal. Any failure to complete the surrender, restoration, or removal of personal property of Subtenant prior to the expiration of the Lease Term shall constitute a holdover and be subject to holdover rent as set forth in Section 17.9 of the Primary Lease. Any personal property of Subtenant remaining the Subleased Premises after the expiration of the Term shall be deemed abandoned by Subtenant and may be disposed of by Sublandlord in accordance with Sections 1980 through 1991 and Sections 1993 through 1993.09 of the California Civil Code and Section 1174 of the California Code of Civil Procedure, or in accordance with any laws or judicial decisions which may supplement or supplant those provisions from time to time. The obligations of Subtenant hereunder shall survive the expiration or earlier termination of this Sublease.

7. Incorporation of Primary Lease by Reference.

(a) The terms, covenants, and conditions of the Primary Lease are incorporated herein by reference, except to the extent they are expressly deleted or modified by the provisions of this Sublease. Every term, covenant, and condition of the Primary Lease binding on or inuring to the benefit of Prime Landlord shall, in respect of this Sublease, be binding on or inure to the benefit of Sublandlord and every term, covenant, and condition of the Primary Lease binding on or inuring to the benefit of Sublandlord shall, in respect of this Sublease, be binding on and inure to the benefit of Subtenant. Whenever the term "**Lessor**" appears in the Primary Lease, the word "**Sublandlord**" shall

be substituted therefore; whenever the term "**Lessee**" appears in the Primary Lease, the word "**Subtenant**" shall be substituted therefore; and whenever the word "**Premises**" appears in the Primary Lease, the word "**Subleased Premises**" shall be substituted therefore.

(b) Notwithstanding the foregoing: (i) the following numbered paragraphs of the Primary Lease shall not apply to this Sublease: 1.2, 1.3, 1.4, 1.6, 1.8, 2.2, 2.3, 3.1, 4.3, 8.3 and Exhibit A. If any of the express provisions of this Sublease shall conflict with any of the provisions of the Primary Lease, the provisions of the Primary Lease shall govern.

8. Subordination to Primary Lease.

This Sublease is subject and subordinate to the Primary Lease. A redacted copy of the Primary Lease is attached hereto as Exhibit D and made a part of this Sublease.

9. Representations of Sublandlord.

Sublandlord represents and warrants the following is true and correct as of the date hereof:

(a) Sublandlord is the tenant under the Primary Lease and has the capacity to enter into this Sublease with Subtenant, subject to Prime Landlord's consent.

(b) The Primary Lease attached hereto as Exhibit D is a true, correct, and complete copy of the Primary Lease, is in full force and effect, and has not been further modified, amended, or supplemented except as expressly set out herein.

(c) Sublandlord has not received any notice, and has no actual knowledge, of any default by Sublandlord under the Primary Lease.

10. AS-IS Condition.

Subtenant accepts the Subleased Premises and the Equipment in its current, "as-is" condition. Sublandlord shall have no obligation to furnish or supply any work, services, furniture, fixtures, equipment, or decorations, except Sublandlord shall deliver the Subleased Premises in broom clean condition. On or before the Sublease Expiration Date or earlier termination or expiration of this Sublease, Subtenant shall restore or replace the Subleased Premises and all the leased Equipment to the condition existing as of the Sublease Commencement Date, ordinary wear and tear excepted. Throughout the Term, Subtenant shall maintain the equipment in good order, condition, and state of repair. The obligations of Subtenant hereunder shall survive the expiration or earlier termination of this Sublease.

11. Performance by Sublandlord.

Notwithstanding any other provision of this Sublease, Sublandlord shall have no obligation: (a) to furnish or provide, or cause to be furnished or provided, any repairs, restoration, alterations, or other work, or electricity, heating, ventilation, air-conditioning, water, elevator, cleaning, or other utilities or services; or (b) to comply with or perform or, except as expressly provided in this Sublease, to cause the compliance with or performance of, any of the terms and conditions required to be performed by Prime Landlord under the terms of the Primary Lease. Subtenant hereby agrees that Prime Landlord is solely responsible for the performance of the foregoing obligations. Notwithstanding the foregoing, on the written request of Subtenant, Sublandlord shall make a written demand on Prime Landlord to perform its obligations under the Primary Lease with respect to the Subleased Premises if Prime Landlord fails to perform same within the time frame and in the manner required under the Primary Lease; provided, however, Subtenant shall not be required to bring any action against the Prime Landlord to enforce its obligations. If Sublandlord makes written demand on Prime Landlord or brings an action against Prime Landlord to enforce Prime Landlord's obligations under the Primary Lease with respect to the Subleased Premises, all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) so incurred by Sublandlord in connection therewith shall be deemed Additional Rent and shall be due and payable by Subtenant to Sublandlord within ten (10) days after notice from Sublandlord.

12. No Privity of Estate; No Privity of Contract.

Nothing in this Sublease shall be construed to create privity of estate or privity of contract between Subtenant and Prime Landlord.

13. No Breach of Primary Lease.

Subtenant shall not do or permit to be done any act or thing, or omit to do anything, which may constitute a breach or violation of any term, covenant, or condition of the Primary Lease, notwithstanding such act, thing, or omission is permitted under the terms of this Sublease.

14. Subtenant Defaults.

(a) If Subtenant fails to cure a default under this Sublease within any applicable grace or cure period contained in the Primary Lease, Sublandlord, after ten (10) days' notice to Subtenant, shall have the right, but not the obligation, to seek to remedy any such default on the behalf of, and at the reasonable expense of, Subtenant, provided, however, that in the case of: (i) a life safety or property related emergency; or (ii) a default which must be cured within a time frame set out in the Primary Lease which does not allow sufficient time for prior notice to be given to Subtenant, Sublandlord may remedy any such default without being required first to give notice to Subtenant. Any reasonable cost and expense (including, without limitation, reasonable attorneys' fees and expenses) so incurred by Sublandlord shall be deemed Additional Rent and shall be due and payable by Subtenant to Sublandlord within ten (10) days after notice from Sublandlord.

(b) If Subtenant fails to pay any installment of Base Rent or Additional Rent within three (5) days after the due date of such payment, Subtenant shall pay to Sublandlord, as Additional Rent, a "**late charge**" of five percent (5%) of such overdue amount for the purposes of defraying the expense of handling such delinquent payment.

(c) If Subtenant fails to pay any installment of Base Rent or Additional Rent within thirty (30) days from the due date of such payment, in addition to the payment of the late charge set out immediately above, Subtenant shall also pay to Sublandlord, as Additional Rent, interest at the Default Rate (hereinafter defined) from the due date of such payment to the date payment is made. "**Default Rate**" shall mean a rate *per annum* equal to the lesser of: ten percent (10%) and (ii) the highest rate of interest permitted by applicable laws.

15. Consents.

Whenever the consent or approval of Sublandlord is required, Subtenant shall also be obligated to obtain the written consent or approval of Prime Landlord, if required under the terms of the Primary Lease. Sublandlord shall promptly make such consent request on behalf of Subtenant and Subtenant shall promptly provide any information or documentation that Prime Landlord may request. Subtenant shall reimburse Sublandlord, not later than ten (10) days after written demand by Sublandlord, for any reasonable fees and disbursements of attorneys, architects, engineers, or others charged by Prime Landlord in connection with any consent or approval. Sublandlord shall have no liability of any kind to Subtenant for Prime Landlord’s failure to give its consent or approval.

16. Assignment or Subletting.

Subtenant shall not sublet all or any portion of the Subleased Premises or assign, encumber, mortgage, pledge, or otherwise transfer this Sublease (by operation of law or otherwise) or any interest therein, without the prior written consent of: (a) Sublandlord, which consent shall not be unreasonably withheld; and (b) Prime Landlord.

17. Indemnity.

(a) Except in the instance of Sublandlord’s gross negligence or willful misconduct, Subtenant shall indemnify and hold harmless Sublandlord from any claims, liabilities, and damages that Sublandlord may sustain resulting from a breach by Subtenant of this Sublease or arising out of, involving or in connection with the use or

occupancy of the Sublease Premises or the Project by Subtenant or Subtenant's agents, contractors, employees licensees or invitees.

(b) Except in the instance of Subtenant's gross negligence or willful misconduct, Sublandlord shall indemnify and hold harmless Subtenant from any claims, liabilities, and damages that Subtenant may sustain resulting from a breach by Sublandlord of this Sublease or arising out of, involving or in connection with the use or occupancy of the Sublease Premises or the Project by Sublandlord or Sublandlord's agents, contractors, employees licensees or invitees

18. Release.

Subtenant hereby releases Prime Landlord or anyone claiming through or under Prime Landlord by way of subrogation or otherwise to the extent that Sublandlord releases Prime Landlord under the terms of the Primary Lease. Subtenant shall cause its insurance carriers to include any clauses or endorsements in favor of Sublandlord, Prime Landlord, and any additional parties, which Sublandlord is required to provide under the provisions of the Primary Lease.

19. Notices.

All notices and other communications required or permitted under this Sublease shall be given in the same manner as in the Primary Lease. Notices shall be addressed to the addresses set out below:

To Subtenant at:
NanKwest, Inc.
3530 Johns Hopkins Court
San Diego, California 92121
Attn: Chief Financial Officer

To Sublandlord at:
Altor Bioscience Manufacturing Company LLC
9920 Jefferson Boulevard
Culver City, California 90232
Attn: Chief Financial Officer

20. Brokers.

Sublandlord and Subtenant each represent to the other that it has not dealt with any other broker. Sublandlord and Subtenant each indemnify and hold harmless the other from and against all claims, liabilities, damages, costs, and expenses (including without limitation reasonable attorneys' fees and other charges) arising out of any claim, demand, or proceeding for commissions, fees, reimbursement for expenses, or other compensation by any person or entity who shall claim to have dealt with the indemnifying party in connection with the Sublease. This Section 20 shall survive the expiration or earlier termination of this Sublease.

21. Entire Agreement.

This Sublease contains the entire agreement between the parties regarding the subject matter contained herein and all prior negotiations and agreements are merged herein. If any provisions of this Sublease are held to be invalid or unenforceable in any respect, the validity, legality, or enforceability of the remaining provisions of this Sublease shall remain unaffected.

22. Amendments and Modifications.

This Sublease may not be modified or amended in any manner other than by a written agreement signed by the party to be charged.

23. Successors and Assigns.

The covenants and agreements contained in this Sublease shall bind and inure to the benefit of Sublandlord and Subtenant and their respective permitted successors and assigns.

24. Counterparts.

This Sublease may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument. A signed copy of this Sublease delivered by either facsimile or email shall be deemed to have the same legal effect as delivery of an original signed copy of this Sublease.

25. Defined Terms.

All capitalized terms not otherwise defined in this Sublease shall have the definitions contained in the Primary Lease.

26. Choice of Law. This Sublease shall be governed by, and construed in accordance with, the laws of the State of California without regard to conflict of law rules.

27. Conditions. This Sublease is expressly conditioned on Sublandlord obtaining the consent and acknowledgement of Prime Landlord (the "**Landlord Consent**"). Sublandlord shall not be required to perform any acts, expend any funds, or bring any legal proceedings to obtain the Landlord Consent and Subtenant shall have no right to any claim against Sublandlord if the Landlord Consent is not obtained. If the Landlord Consent is not obtained within ten (10) days from the date of this Sublease, either party may terminate this Sublease on written notice to the other and neither party shall have any further obligation to the other under this Sublease, except to the extent that the provisions of this Sublease expressly survive the termination of this Sublease.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Sublease to be executed as of the Effective Date.

SUBLANDLORD:

ALTOR BIOSCIENCE MANUFACTURING COMPANY, LLC,
a Delaware limited liability company

By: /s/ David Sachs
Name: David Sachs
Title: Authorized Representative

SUBTENANT:

NANTKWEST, INC.,
a Delaware corporation

By: /s/ Steven C. Yang
Name: Steven C. Yang
Title: General counsel

CONSENT AND ACKNOWLEDGEMENT OF PRIME LANDLORD:

DULEY ROAD, LLC,
A California limited liability company

By: /s/ Chuck Kenworthy
Name: Chuck Kenworthy
Title: Manager

Exhibit 10.4

October 20, 2020

Richard Adcock

RE: Offer of Employment

Dear Richard:

I am pleased to offer you a position with NantKwest, Inc. (the "Company") as its Chief Executive Officer, effective October 26, 2020 (the "Effective Date"). You will report through the Company's offices in Culver City, CA. You will report to the Company's Board of Directors. In this position, your duties will include the duties set forth in Exhibit A hereto, in addition to other duties that may be assigned to you from time to time. The terms of our offer are as follows:

1. **Starting Salary.** Your starting salary will be $750,000.00 if you work an entire year, to be paid in accordance with the Company's payroll practices in effect from time to time. The Company may withhold from all amounts payable to you such federal, state and local taxes as may be required to be withheld pursuant to applicable law or regulation.

2. **Bonus.** You shall be eligible to participate in the annual discretionary bonus plan for this position. The discretionary target bonus is fifty percent (50%) of your base salary (*i.e.*, $375,000), subject to such performance targets and other factors, as may be determined in the sole and absolute discretion of the Company's Board of Directors. You will first be eligible to participate in the bonus plan for the 2020 calendar year (payable in 2021 and prorated for the partial year). In the first full calendar year of employment (i.e., for the 2021 calendar year), you will be paid no less than fifty (50%) of target (e.g. $187,500.00), with an opportunity to receive payment at or above target; in subsequent calendar years, your target bonus will be subject to such performance targets and other factors as may be determined in the sole and absolute discretion of the Company's Board of Directors. As the annual bonus is subject to the attainment of performance targets, it may be paid at, above or below target levels. In order to receive any bonus payment, you must remain continuously employed through, and still be employed by the Company on, the date any such bonus is paid. An employee earns a bonus only if employed on payment day and has not indicated an intent to resign.

3. **Benefits**. During your employment with the Company, you will be eligible to participate in any regular health insurance, retirement and other employee benefit plans established by the Company for its employees from time to time. Benefits, if any, will be subject to satisfaction of eligibility requirements and the plan terms. The Company's benefit plans are subject to amendment, modification or termination by the Company at any time. Without limiting the generality of the foregoing, during the term of employment hereunder, the Company will reimburse the costs associated with Employee's current two (2) life insurance policies (approximately $30,000.00 annually in the aggregate). The Company may withhold from all amounts payable to you such federal, state and local taxes as may be required to be withheld pursuant to applicable law or regulation. As a regular full-time exempt employee, you are eligible to participate in an informal flexible time off program: employees have the authority to use their judgment and discretion and take temporary periods of time away from work as vacation, without loss of pay, as their work permits.

4. **Equity**. In addition, if you decide to join us, subject to the approval of the Company's compensation committee of the Board of Directors, you shall be granted a stock option to purchase 1,000,000 shares of the Company's common stock pursuant to the Company's Amended and Restated 2015 Equity Incentive Plan (the "Plan"). The stock options will have an exercise price equal to the fair market value on the date of grant (*i.e.*, the closing price as reported on Nasdaq on the date of grant). The options to be granted (subject to approval by the Company's compensation committee) shall vest over time according to the following vesting schedule: (i) 25% of the options (*i.e.*, 250,000 options) shall vest on January 1, 2021; and (ii) the remaining 75% of the options shall vest in equal annual installments over a period of three years from the Effective Date (*i.e.*, 25% of the shares subject to the stock option, or 250,000 stock options, shall vest on each of November 1, 2021, November 1, 2022 and November 1, 2023). No right to any stock is earned or accrued until such time that vesting occurs, nor does this grant confer any right to continue vesting or employment. This equity award shall be subject to the terms and conditions of the Plan and award agreement governing the stock option grant.

5. **Severance.** In the event that the Company terminates your employment without Cause (as defined below) after the Effective Date, the Company shall pay you a single cash payment equal to twelve (12) months of your then-current annual base salary (*i.e.*, $750,000.), less all applicable federal, state, and local withholdings and deductions. Such payment shall be made within two and one-half (2.5) months following the date on which the termination occurs, subject to any required delay to satisfy the requirements of Section 409A as provided below. Your receipt of any payment under this paragraph shall be contingent upon your signing of a general release agreement in favor of and satisfactory to the Company within the thirty (30) day period following your termination date and your non-revocation of such release agreement during any statutorily-provided revocation period. For the avoidance of doubt, if (i) you resign from or otherwise terminate your employment with the Company at any time, (ii) the Company terminates your employment for Cause, or (iii) your employment is terminated by reason of death or Disability, you will not be eligible for any severance payment.

For purposes of this offer letter, "Cause" shall mean any of the following: (a) a material breach of any agreement you have with the Company, including, but not limited to, a confidentiality agreement, or any policy of the Company, and such material breach is not cured to the reasonable satisfaction of the Company within twenty (20) days after written notice to you; (b) conviction of a felony or any other crime involving dishonesty, breach of trust, moral turpitude, or physical harm to any person (including, but not limited to, the Company or any of its employees); (c) an act of fraud, misconduct, or dishonesty in connection with the business of the Company; (d) failure to satisfactorily or adequately perform your duties hereunder as reasonably determined by the Company, including, but not limited to, your inability to achieve goals, inability to work with others, insubordination or excessive tardiness, or failure to implement or follow a lawful policy or directive of the Company, and in each case such failure continues for a period of twenty (20) days after written notice to you; (e) your receipt of a Final Written Warning for any reason; or (f) insobriety or other substance abuse during work activities. For purposes of this offer letter, "Disability" shall mean (i) you become eligible for the Company's long-term disability benefits or (ii) in the opinion of the Company, you have been unable to carry out your responsibilities and functions by reason of any physical or mental impairment for more than ninety (90) consecutive days or more than one hundred twenty (120) days in any twelve (12) month period.

To the extent necessary to comply with Section 409A(a)(2)(B)(i) of the Internal Revenue Code of 1986, as amended (the "Code") (relating to payments made to certain "key employees" of certain publicly-traded companies), any severance payments payable to you under the terms of paragraph 6 which constitute deferred compensation subject to Code Section 409A to which you would otherwise be entitled during the six (6) month period immediately following your separation from service will be paid on the earlier of (i) the first business day following the expiration of such six (6) month period or (ii) your death. You and the Company shall reasonably cooperate with each other to avoid the imposition of any additional taxes, interest and/or penalty to you under Section 409A of the Code.

6. **Confidentiality**. As an employee of the Company, you will have access to certain confidential information of the Company and you may, during the course of your employment, develop certain information or inventions that will be the property of the Company. As a condition of your employment, you are also required to sign and comply with an At-Will Employment, Confidential Information, Invention Assignment and Arbitration Agreement which requires, among other provisions, the assignment of patent rights to any invention made during your employment at the Company, and non-disclosure of Company proprietary information. In the event of any dispute or claim relating to or arising out of our employment relationship, you and the Company agree that (i) any and all disputes between you and the Company shall be fully and finally resolved by binding arbitration, (ii) you are waiving any and all rights to a jury trial but all court remedies will be available in arbitration, (iii) all disputes shall be resolved by a neutral arbitrator who shall issue a written opinion, (iv) the arbitration shall provide for adequate discovery, and (v) the Company shall pay all the arbitration fees, except an amount equal to the filing fees you would have paid had you filed a complaint in a court of law. Please note that we must receive your signed Agreement before your first day of employment.

7. **At Will Employment**. While we look forward to a long and profitable relationship, should you decide to accept our offer, you will be an at-will employee of the Company, which means either the Company or you can terminate the employment relationship for any reason, at any time, with or without prior notice and with our without cause. Any statements or representations to the contrary (and, indeed, any statements contradicting any provision in this letter) should be regarded by you as ineffective. Further, your participation in any benefit program is not intended to, and does not confer on you, any right to continued employment for any particular period of time. Any modification or change in your at will employment status may only occur by way of a written employment agreement signed by you and a member of the Company's board of directors.

8. **Performance of Duties**. You shall devote your full time and attention to your duties and the performance of the services and shall serve the Company diligently and to your best abilities. Your services shall be exclusive to the Company during the term hereof, and you shall not accept any other employment or position, or engage in any other business enterprise, of any nature, without the prior written consent of the Company. The Company acknowledges that from time to time you may provide advisory services to certain affiliates of the Company. Notwithstanding the foregoing, nothing in this Paragraph 8 shall restrict your incidental engagement with or employment by any not-for-profit charities, religious organizations or other similar enterprises.

9. **Authorization to Work**. Please note that because of employer regulations adopted in the Immigration Reform and Control Act of 1986, within three (3) business days of starting your new position you will need to present documentation demonstrating that you have authorization to work in the United States. If you have questions about this requirement, which applies to U.S. citizens and non-U.S. citizens alike, you may contact our personnel office.

10. **Background Check**. This offer is contingent upon a successful employment verification of criminal, education, employment background and a drug screening. This offer can be rescinded based upon data received in the verification.

11. **Miscellaneous**. The terms of this offer letter and the relationship of the parties in connection with the subject matter hereof will be construed and enforced according to the laws of the State of Delaware, without giving effect to the conflicts of the law rules. Notwithstanding anything else herein, this Agreement is personal to you and neither the Agreement nor any rights hereunder may be assigned by you. The Company may assign this Agreement to any of its affiliates or to any successor to all or substantially all of the business and/or assets of the Company which assumes in writing or by operation of law, the obligations of the Company hereunder.

12. **Acceptance**. This offer will remain open until October 20, 2020. If you decide to accept our offer, and I hope you will, please sign the enclosed copy of this letter in the space indicated and return it to me. Your signature will acknowledge that you have read and understood and agreed to the terms and conditions of this offer letter and the attached documents, if any. Should you have anything else that you wish to discuss, please do not hesitate to call me.

We look forward to the opportunity to welcome you to the Company.

Very truly yours,

/s/ Nancy V. Antoniou
Name: Nancy V. Antoniou
Title: Chief Human Resources Officer

I have read and understood this offer letter and hereby acknowledge, accept and agree to the terms as set forth above *including that I am an at-will employee* and further acknowledge that no other commitments were made to me as part of my employment offer except as specifically set forth herein.

/s/ Richard Adcock
Name: Richard Adcock Date signed: 10-20-2020

Enclosures
Original Letter
Exhibit A

EXHIBIT A

ESSENTIAL FUNCTIONS:

Job Duties to be determined by the Board of Directors

Exhibit 31.1

CERTIFICATION OF PERIODIC REPORT UNDER SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Richard Adcock, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of NantKwest, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer 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 9, 2020

By: */s/ Richard Adcock*
Richard Adcock
Chief Executive Officer
(*Principal Executive Officer*)

Exhibit 31.2

CERTIFICATION OF PERIODIC REPORT UNDER SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Sonja Nelson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of NantKwest, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer 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 9, 2020

By: */s/ Sonja Nelson*
Sonja Nelson
Chief Financial Officer
(*Principal Financial and Accounting Officer*)

Exhibit 32.1

CERTIFICATION OF THE CHIEF EXECUTIVE OFFICER PURSUANT TO 18 U.S.C. § 1350, AS ADOPTED

PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Richard Adcock, the chief executive officer of NantKwest, Inc. (the "Company"), certify for the purposes of 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

i. the Quarterly Report of the Company on Form 10-Q for the quarter ended September 30, 2020 (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

ii. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 9, 2020

By: */s/ Richard Adcock*
Richard Adcock
Chief Executive Officer
(*Principal Executive Officer*)

Exhibit 32.2

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

I, Sonja Nelson, the chief financial officer of NantKwest, Inc. (the "Company"), certify for the purposes of 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

i. the Quarterly Report of the Company on Form 10-Q for the quarter ended September 30, 2020 (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

ii. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 9, 2020

By: */s/ Sonja Nelson*
Sonja Nelson
Chief Financial Officer
(*Principal Financial and Accounting Officer*)