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 June 30, 2020
OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For transition period from to
Commission File Number: 001-39186

ARCUTIS BIOTHERAPEUTICS, INC.
(Exact name of registrant as specified in its charter)

Delaware	**81-2974255**
(State or Other Jurisdiction of Incorporation or Organization)	**(I.R.S. Employer Identification Number)**
2945 Townsgate Road Suite 110 **Westlake Village, California** **(Address of Principal Executive Offices)**	**91361** **(Zip Code)**

(805) 418-5006
(Registrant's telephone number, including area code)

Not Applicable
(Former name, former address and former fiscal year, if changed since last report)

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

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock, par value $0.0001	**ARQT**	**The 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 August 1, 2020 was 38,189,287.

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

ARCUTIS BIOTHERAPEUTICS, INC.
Condensed Balance Sheets
(In thousands, except share and par value)

	June 30, 2020 (unaudited)	December 31, 2019
ASSETS		
Current assets:		
Cash and cash equivalents	$ 171,546	$ 63,336
Marketable securities	52,429	37,929
Prepaid expenses and other current assets	4,060	5,209
Total current assets	228,035	106,474
Property, plant, and equipment, net	228	227
Operating lease right-of-use asset	3,629	264
Other assets	78	47
Total assets	$ 231,970	$ 107,012
LIABILITIES, CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current liabilities:		
Accounts payable	$ 8,253	$ 1,405
Accrued liabilities	10,948	3,654
Operating lease liability	80	178
Total current liabilities	19,281	5,237
Operating lease liability, noncurrent	3,610	129
Other long-term liabilities	156	184
Total liabilities	23,047	5,550
Commitments and contingencies (Note 6)		
Convertible preferred stock, $0.0001 par value; no shares and 48,787,898 shares authorized at June 30, 2020 and December 31, 2019, respectively; no shares and 24,385,388 shares issued and outstanding at June 30, 2020 and December 31, 2019, respectively	—	166,491
Stockholders' equity (deficit):		
Preferred stock, $0.0001 par value; 10,000,000 and no shares authorized at June 30, 2020 and December 31, 2019, respectively; no shares issued and outstanding at June 30, 2020 and December 31, 2019;	—	—
Common stock, $0.0001 par value; 300,000,000 and 65,820,000 shares authorized at June 30, 2020 and December 31, 2019, respectively; 38,189,287 and 2,879,763 shares issued at June 30, 2020 and December 31, 2019, respectively; 37,690,058 and 2,120,853 shares outstanding at June 30, 2020 and December 31, 2019, respectively	3	—
Additional paid-in capital	338,617	1,244
Accumulated other comprehensive income (loss)	—	(1)
Accumulated deficit	(129,697)	(66,272)
Total stockholders' equity (deficit)	208,923	(65,029)
Total liabilities, convertible preferred stock and stockholders' equity (deficit)	$ 231,970	$ 107,012

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

ARCUTIS BIOTHERAPEUTICS, INC.

Condensed Statements of Operations and Comprehensive Loss
(In thousands, except share and per share data)
(unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Operating expenses:				
Research and development	$ 30,009	$ 7,214	$ 55,191	$ 13,417
General and administrative	5,618	1,324	9,087	2,073
Total operating expenses	35,627	8,538	64,278	15,490
Loss from operations	(35,627)	(8,538)	(64,278)	(15,490)
Other income, net	215	248	853	542
Net loss	$ (35,412)	$ (8,290)	$ (63,425)	$ (14,948)
Other comprehensive income (loss):				
Unrealized gain (loss) on marketable securities	(19)	2	1	3
Comprehensive loss	$ (35,431)	$ (8,288)	$ (63,424)	$ (14,945)
Per share information:				
Net loss per share, basic and diluted	$ (0.94)	$ (4.69)	$ (2.05)	$ (8.79)
Weighted-average shares used in computing net loss per share, basic and diluted	37,587,330	1,767,658	30,921,866	1,700,549

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

ARCUTIS BIOTHERAPEUTICS, INC.
Condensed Statements of Convertible Preferred Stock and Stockholders' Equity (Deficit)
(In thousands, except share data)
(unaudited)

	Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Shares	Amount	Shares	Amount				
Balance—December 31, 2018	16,262,425	$ 72,252	1,557,900	$ —	$ 289	$ —	$ (24,276)	$ (23,987)
Vesting of founder shares subject to repurchase	—	—	68,931	—	—	—	—	—
Lapse of repurchase rights related to common stock issued pursuant to early exercises	—	—	65,868	—	29	—	—	29
Stock-based compensation expense	—	—	—	—	76	—	—	76
Unrealized gain on short term investments	—	—	—	—	—	1	—	1
Net Loss	—	—	—	—	—	—	(6,658)	(6,658)
Balance—March 31, 2019	16,262,425	$ 72,252	1,692,699	$ —	$ 394	$ 1	$ (30,934)	$ (30,539)
Vesting of founder shares subject to repurchase	—	—	68,931	—	—	—	—	—
Lapse of repurchase rights related to common stock issued pursuant to early exercises	—	—	65,868	—	29	—	—	29
Stock-based compensation expense	—	—	—	—	139	—	—	139
Unrealized gain on short term investments	—	—	—	—	—	2	—	2
Net Loss	—	—	—	—	—	—	(8,290)	(8,290)
Balance—June 30, 2019	16,262,425	$ 72,252	1,827,498	$ —	$ 562	$ 3	$ (39,224)	$ (38,659)

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

ARCUTIS BIOTHERAPEUTICS, INC.
Condensed Statements of Convertible Preferred Stock and Stockholders' Equity (Deficit)
(In thousands, except share data)
(unaudited)

	Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Shares	Amount	Shares	Amount				
Balance—December 31, 2019	24,385,388	$ 166,491	2,120,853	$ —	$ 1,244	$ (1)	$ (66,272)	$ (65,029)
Conversion of preferred stock into common stock upon initial public offering	(24,385,388)	(166,491)	24,385,388	2	166,489	—	—	166,491
Issuance of shares of common stock, net of issuance costs of $16.0 million	—	—	10,781,250	1	167,240	—	—	167,241
Issuance of common stock upon the exercise of stock options	—	—	51,147	—	152	—	—	152
Vesting of founder shares subject to repurchase	—	—	68,931	—	—	—	—	—
Lapse of repurchase rights related to common stock issued pursuant to early exercises	—	—	64,428	—	30	—	—	30
Stock-based compensation expense	—	—	—	—	990	—	—	990
Unrealized gain on short term investments	—	—	—	—	—	20	—	20
Net Loss	—	—	—	—	—	—	(28,013)	(28,013)
Balance—March 31, 2020	—	$ —	37,471,997	$ 3	$ 336,145	$ 19	$ (94,285)	$ 241,882
Issuance of common stock upon the exercise of stock options	—	—	14,875	—	25	—	—	25
Vesting of founder shares subject to repurchase	—	—	68,932	—	—	—	—	—
Lapse of repurchase rights related to common stock issued pursuant to early exercises	—	—	114,392	—	111	—	—	111
Shares issued pursuant to the employee stock purchase plan	—	—	19,862	—	287	—	—	287
Stock-based compensation expense	—	—	—	—	2,049	—	—	2,049
Unrealized gain on short term investments	—	—	—	—	—	(19)	—	(19)
Net Loss	—	—	—	—	—	—	(35,412)	(35,412)
Balance—June 30, 2020	—	$ —	37,690,058	$ 3	$ 338,617	$ —	$ (129,697)	$ 208,923

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

ARCUTIS BIOTHERAPEUTICS, INC.
Condensed Statements of Cash Flows
(In thousands)
(unaudited)

	Six Months Ended June 30,	
	2020	**2019**
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	$ (63,425)	$ (14,948)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	57	25
Non-cash lease expense	65	55
Net amortization/accretion on marketable securities	(336)	(293)
Stock-based compensation	3,039	215
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	(629)	(1,576)
Other assets	—	(47)
Accounts payable	6,910	225
Accrued liabilities	7,595	1,029
Operating lease liabilities	(47)	(2)
Net cash used in operating activities	(46,771)	(15,317)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of marketable securities	(62,763)	(22,897)
Proceeds from maturities of marketable securities	48,600	11,700
Purchases of property and equipment	(58)	(225)
Net cash used in investing activities	(14,221)	(11,422)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from issuance of common stock upon exercise of stock options	273	168
Proceeds from initial public offering, net of issuance costs	168,642	—
Proceeds from issuance of common stock for ESPP purchase	287	—
Net cash provided by financing activities	169,202	168
Net increase (decrease) in cash and cash equivalents	108,210	(26,571)
Cash and cash equivalents at beginning of period	63,336	39,394
Cash and cash equivalents at end of period	$ 171,546	$ 12,823
SUPPLEMENTAL DISCLOSURES OF NON-CASH INVESTING AND FINANCING INFORMATION:		
Right-of-use asset obtained in exchange for lease liability	$ 3,645	$ 391
Reduction in right-of-use asset upon reassessment of lease term	$ 139	$ —

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

ARCUTIS BIOTHERAPEUTICS, INC.
Notes to Condensed Financial Statements
(unaudited)

1. Organization and Description of Business

Arcutis Biotherapeutics, Inc., or the Company, is a late-stage biopharmaceutical company focused on developing and commercializing treatments for dermatological diseases with high unmet medical needs. The Company's current portfolio is comprised of topical treatments with significant promise in addressing immune-mediated dermatological diseases and conditions, or immuno-dermatology. The Company's strategy is to advance treatments that leverage validated biological targets in dermatology in order to deliver clinical profiles that address major shortcomings of existing therapies in its targeted indications. The Company believes this strategy uniquely positions it to rapidly advance its goal of bridging the treatment innovation gap in dermatology while maximizing its probability of technical success.

On January 17, 2020, the Company's board of directors approved a 1-for-2.0007 reverse stock split of the Company's capital stock and the Company filed a certificate of amendment to its restated certificate of incorporation to effect the split. The par value and authorized shares of common stock and convertible preferred stock were not adjusted as a result of the reverse split. All share and per share information included in the accompanying financial statements has been adjusted to reflect this reverse stock split.

Initial Public Offering

On February 4, 2020, the Company closed an initial public offering (IPO), issuing and selling 10,781,250 shares of common stock at a public offering price of $17.00 per share, including 1,406,250 shares sold pursuant to the underwriters' full exercise of their option to purchase additional shares. The aggregate net proceeds received by the Company from the offering were approximately $167.2 million, after deducting underwriting discounts, commissions and offering related transaction costs. Upon the closing of the IPO, all of the outstanding shares of convertible preferred stock automatically converted into shares of common stock. Subsequent to the closing of the IPO, there were no shares of convertible preferred stock outstanding. The financial statements as of June 30, 2020, including share and per share amounts, incorporate the effects of the IPO.

Liquidity

The Company has incurred significant losses and negative cash flows from operations since its inception and had an accumulated deficit of $129.7 million and $66.3 million as of June 30, 2020 and December 31, 2019, respectively. The Company had cash, cash equivalents and marketable securities of $224.0 million and $101.3 million as of June 30, 2020 and December 31, 2019, respectively. Prior to selling common stock in its IPO, the Company had historically financed its operations primarily through the sale of its convertible preferred stock. Management expects operating losses to continue for the foreseeable future.

The Company believes that its existing capital resources will be sufficient to meet the projected operating requirements for at least 12 months from the date of issuance of its financial statements. The Company will be required to raise additional capital to fund future operations. However, no assurance can be given as to whether additional needed financing will be available on terms acceptable to the Company, if at all. If sufficient funds on acceptable terms are not available when needed, the Company may be required to curtail planned activities to significantly reduce its operating expenses. Failure to manage discretionary spending or raise additional financing, as needed, may adversely impact the Company's ability to achieve its intended business objectives and have an adverse effect on its results of operations and future prospects.

Coronavirus Outbreak

In March 2020, the World Health Organization declared a pandemic related to the global novel coronavirus disease 2019 (COVID-19) outbreak. As of August 11, 2020, the Company's operations have not been significantly impacted by the COVID-19 pandemic. The Company is monitoring the potential impact COVID-19 may have on the clinical development of its product candidates, including potential delays or modifications to its ongoing and planned trials. However, the Company cannot at this time predict the specific extent, duration, or full impact that the COVID-19 outbreak will have on its financial condition and operations, including ongoing and planned clinical trials.

ARCUTIS BIOTHERAPEUTICS, INC.
Notes to Condensed Financial Statements
(unaudited)

2. Summary of Significant Accounting Policies

Basis of Presentation

The Company's condensed financial statements have been prepared in accordance with United States generally accepted accounting principles, or U.S. GAAP.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in the condensed financial statements and accompanying notes. On an ongoing basis, management evaluates such estimates and assumptions for continued reasonableness. In particular, management makes estimates with respect to accruals for research and development activities, fair value of common stock and convertible preferred stock (prior to the IPO completed in January 2020), stock-based compensation expense and income taxes. Appropriate adjustments, if any, to the estimates used are made prospectively based upon such periodic evaluation. Actual results could differ from those estimates.

Segments

To date, the Company has viewed its financial information on an aggregate basis for the purposes of evaluating financial performance and allocating the Company's resources. Accordingly, the Company has determined that it operates in one segment.

Unaudited Interim Condensed Financial Statements

The interim condensed balance sheet as of June 30, 2020, the interim condensed statements of operations and comprehensive loss and the condensed changes in convertible preferred stock and stockholders' equity (deficit) for the three and six months ended June 30, 2020 and 2019, and cash flows for the six months ended June 30, 2020 and 2019 are unaudited. These unaudited interim condensed financial statements have been prepared on the same basis as the Company's audited annual financial statements and, in the opinion of management, reflect all adjustments (consisting only of normal recurring adjustments) that are necessary for a fair statement of the Company's financial information. The financial data and the other financial information disclosed in these notes to the condensed financial statements related to the three- and six-month periods are also unaudited. The condensed results of operations for the three and six months ended June 30, 2020 are not necessarily indicative of the results to be expected for the year ending December 31, 2020 or for any other future annual or interim period. The condensed balance sheet as of December 31, 2019 included herein was derived from the audited financial statements as of that date. Certain information and footnote disclosures normally included in annual financial statements prepared in accordance with U.S. GAAP have been condensed or omitted. Therefore, these unaudited interim condensed financial statements should be read in conjunction with the Company's audited financial statements included in its Annual Report on Form 10-K for the year ended December 31, 2019.

Cash and Cash Equivalents

The Company considers all highly liquid investments purchased with original maturities of three months or less from the purchase date to be cash equivalents. Cash equivalents consist primarily of money market funds, commercial paper, and government securities.

Marketable Securities

Marketable securities consist of investment grade short to intermediate-term fixed income investments that have been classified as available-for-sale and are carried at estimated fair value as determined based upon quoted market prices or pricing models for similar securities. Management determines the appropriate classification of its investments in fixed income securities at the time of purchase. Available-for-sale securities with original maturities beyond three months at the date of purchase are classified as current based on their availability for use in current operations.

Unrealized gains and losses are excluded from earnings and are reported as a component of other comprehensive loss. Realized gains and losses as well as credit losses, if any, on marketable securities are included in other income (expense), net. The Company evaluated the underlying credit quality and credit ratings of

the issuers during the period. To date, no such credit losses have occurred or have been recorded. The cost of investments sold is based on the specific-identification method. As of June 30, 2020, there were no unrealized gains or losses on marketable securities, and as of December 31, 2019, there were unrealized losses on marketable securities of $1,000. Unrealized gains and losses on marketable securities are reported as a component of accumulated other comprehensive income (loss) on the balance sheets. There were no realized gains or losses on investments for the three and six months ended June 30, 2020 and 2019. Interest on marketable securities is included in Other income (expense), net.

Concentration of Credit Risk and Other Risks and Uncertainties

Financial instruments that potentially subject the Company to significant concentrations of credit risk consist primarily of cash, cash equivalents and marketable securities. The Company maintains deposits in federally insured financial institutions in excess of federally insured limits. The Company is exposed to credit risk in the event of a default by the financial institutions holding its cash to the extent recorded on the balance sheets.

Management believes the Company is not exposed to significant credit risk due to the financial position of the depository institutions in which those deposits are held.

Fair Value Measurement

The Company's financial instruments, in addition to those presented in Note 3 *Fair Value Measurements*, include cash equivalents, accounts payable and accrued liabilities. The carrying amount of cash equivalents, accounts payable and accrued liabilities approximate their fair values due to their short maturities.

Assets and liabilities recorded at fair value on a recurring basis on the balance sheets are categorized based upon the level of judgment associated with the inputs used to measure their fair values. Fair value is defined as the exchange price that would be received for an asset or an exit price that would be paid to transfer a liability in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. The authoritative guidance on fair value measurements establishes a three-tier fair value hierarchy for disclosure of fair value measurements as follows:

Level 1—Observable inputs such as unadjusted, quoted prices in active markets for identical assets or liabilities at the measurement date;

Level 2—Inputs (other than quoted prices included in Level 1) are either directly or indirectly observable for the asset or liability. These include quoted prices for similar assets or liabilities in active markets and quoted prices for identical or similar assets or liabilities in markets that are not active;

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

Leases

The Company determines if an arrangement is or contains a lease at inception. Right-of-use (ROU) assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease. The classification of the Company's leases as operating or finance leases along with the initial measurement and recognition of the associated ROU assets and lease liabilities is performed at the lease commencement date. The measurement of lease liabilities is based on the present value of future lease payments over the lease term. The Company uses its incremental borrowing rate, based on the information available at commencement date, to determine the present value of lease payments when its leases do not provide an implicit rate. The Company uses the implicit rate when readily determinable. The ROU asset is based on the measurement of the lease liability, includes any lease payments made prior to or on lease commencement and excludes lease incentives and initial direct costs incurred, as applicable. Lease expense for the Company's operating leases is recognized on a straight-line basis over the lease term. The Company considers a lease term to be the non-cancelable period that it has the right to use the underlying asset, including any periods

where it is reasonably assured the Company will exercise the option to extend the contract. Periods covered by an option to extend are included in the lease term if the lessor controls the exercise of that option.

The Company's lease agreements includes lease and non-lease components and the Company has elected to not separate such components for all classes of assets. Further, the Company elected the short-term lease exception policy, permitting it to not apply the recognition requirements of this standard to leases with terms of 12 months or less (short-term leases) for all classes of assets.

Preclinical and Clinical Accruals and Costs

The Company records accrued liabilities for estimated costs of research and development activities conducted by third-party service providers, which include the conduct of preclinical studies, clinical trials and contract manufacturing activities. These costs are a significant component of the Company's research and development expenses. The Company accrues for these costs based on factors such as estimates of the work completed and in accordance with agreements established with its third-party service providers under the service agreements. The Company makes significant judgments and estimates in determining the accrued liabilities balance in each reporting period. As actual costs become known, the Company adjusts its accrued liabilities. For the three and six months ended June 30, 2020 and 2019, the Company has not experienced any material differences between accrued costs and actual costs incurred.

Convertible Preferred Stock

Prior to its IPO, the Company classified its outstanding convertible preferred stock outside of stockholders' equity (deficit) on its balance sheets as the requirements of triggering a deemed liquidation event, as defined within its amended and restated certificate of incorporation, were not entirely within the Company's control. In the event of such a deemed liquidation event, the proceeds from the event were to be distributed in accordance with the liquidation preferences, provided that the holders of convertible preferred stock had not converted their shares into common stock. The Company recorded the issuance of convertible preferred stock at the issuance price less related issuance costs. The Company did not adjust the carrying values of the convertible preferred stock to the liquidation preferences of such shares because of the uncertainty as to whether or when a deemed liquidation event may have occurred. In connection with the IPO in February 2020, the Company's outstanding shares of convertible preferred stock were automatically converted into 24,385,388 shares of common stock.

Research and Development

Research and development expenses include costs directly attributable to the conduct of research and development programs, including the cost of salaries, payroll taxes, employee benefits, license fees, stock-based compensation expense, materials, supplies, and the cost of services provided by outside contractors. All costs associated with research and development are expensed as incurred. Payments made prior to the receipt of goods or services to be used in research and development are capitalized until the goods are received or services are rendered. Such payments are evaluated for current or long-term classification based on when they will be realized.

The Company has entered into and may continue to enter into, license agreements to access and utilize certain technology. In each case, the Company evaluates if the license agreement results in the acquisition of an asset or a business. To date none of the Company's license agreements have been considered an acquisition of a business. For asset acquisitions, the upfront payments to acquire such licenses, as well as any future milestone payments made before product approval that do not meet the definition of a derivative, are immediately recognized as research and development expense when paid or become payable, provided there is no alternative future use of the rights in other research and development projects.

Stock-Based Compensation

The Company accounts for share-based payments at fair value. The fair value of stock options is measured using the Black-Scholes option-pricing model. For share-based awards that vest subject to the satisfaction of a service requirement, the fair value measurement date for such awards is the date of grant and the expense is recognized on a straight-line basis, over the expected vesting period. For share-based awards that vest subject to a

performance condition, the Company will recognize compensation cost for awards if and when the Company concludes that it is probable that the awards with a performance condition will be achieved on an accelerated attribution method. The Company accounts for forfeitures as they occur.

Income Taxes

Income taxes are accounted for using the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using the enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period of enactment. The Company records a valuation allowance to reduce deferred tax assets to an amount for which realization is more likely than not. Due to the Company's historical operating performance and the recorded cumulative net losses in prior fiscal periods, the net deferred tax assets have been fully offset by a valuation allowance.

The Company recognizes the tax benefit from an uncertain tax position if it is more likely than not that the tax position will be sustained upon examination by the tax authorities, based on the merits of the position. The Company's policy is to recognize interest and penalties related to the underpayment of income taxes as a component of income tax expense or benefit. To date, there have been no interest or penalties incurred in relation to the unrecognized tax benefits.

The United States Congress enacted the Families First Coronavirus Response Act (FFCR Act) on March 18, 2020 and the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) on March 27, 2020. 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 COVID-19. The FFCR Act and CARES Act include numerous tax-related provisions including modifications to the limitations on business interest expense and net operating losses (NOLs), as well as a payment delay of employer payroll taxes in 2020 after the date of enactment. On June 29, 2020, the California State Assembly Bill 85 (Trailer Bill) was enacted which suspends the use of California NOL deductions and certain tax credits, including research and development credits, for the 2020, 2021, and 2022 tax years. The Company does not expect the FFCR Act, CARES Act or Trailer Bill to have a material impact on the Company's financial statements.

Variable Interest Entities

The Company reviews agreements it enters into with third-party entities, pursuant to which the Company may have a variable interest in the entity, in order to determine if the entity is a variable interest entity, or VIE. If the entity is a VIE, the Company assesses whether or not it is the primary beneficiary of that entity. In determining whether the Company is the primary beneficiary of an entity, the Company applies a qualitative approach that determines whether it has both (i) the power to direct the economically significant activities of the entity and (ii) the obligation to absorb losses of, or the right to receive benefits from, the entity that could potentially be significant to that entity. If the Company determines it is the primary beneficiary of a VIE, it consolidates that VIE into the Company's financial statements. The Company's determination about whether it should consolidate such VIEs is made continuously as changes to existing relationships or future transactions may result in a consolidation or deconsolidation event. The Company currently does not consolidate any VIEs.

Net Loss Per Share

Basic net loss per share is calculated by dividing the net loss by the weighted-average number of shares of common stock outstanding for the period, without consideration for potential dilutive shares of common stock. Diluted net loss per share is computed by dividing the net loss by the weighted-average number of common share equivalents outstanding for the period determined using the treasury-stock method. Since the Company was in a loss position for all periods presented, basic net loss per share is the same as diluted net loss per share since the effects of potentially dilutive securities are antidilutive. Shares of common stock subject to repurchase are excluded from the weighted-average shares.

ARCUTIS BIOTHERAPEUTICS, INC.
Notes to Condensed Financial Statements
(unaudited)

Emerging Growth Company Status

The Company is an emerging growth company, as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards issued subsequent to the enactment of the JOBS Act until such time as those standards apply to private companies. The Company has elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date that it is (i) no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. As a result, these financial statements may not be comparable to companies that comply with the new or revised accounting pronouncements as of public company effective dates.

Recently Adopted Accounting Pronouncements

In August 2018, the FASB issued ASU No. 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement,* or ASU No. 2018-13, which removes, modifies, and adds various disclosure requirements on fair value measurements in Topic 820. ASU No. 2018-13 is effective for fiscal years and interim periods within those fiscal years beginning after December 15, 2019. The amendments on changes in unrealized gains and losses, the range and weighted average of significant unobservable inputs used to develop Level 3 fair value measurements, and the narrative description of measurement uncertainty should be applied prospectively for only the most recent interim or annual period presented in the initial fiscal year of adoption. All other amendments should be applied retrospectively to all periods presented upon their effective date. The Company early adopted this standard as of January 1, 2020, and it did not have a material impact on its condensed financial statements.

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments,* or ASU No. 2016-13. This update requires the measurement of all expected credit losses for financial assets held at the reporting date based on historical experience, current conditions, and reasonable and supportable forecasts. Financial institutions and other organizations now include forward-looking information in the determination of their credit loss estimates. Many of the previous loss estimation techniques are still permitted, although the inputs to those techniques have changed to reflect the full amount of expected credit losses. In addition, this update amends the accounting for credit losses on available-for-sale debt securities and purchased financial assets with credit deterioration. The Company early adopted this standard as of January 1, 2020, and it did not have a material impact on its condensed financial statements. There was no impact on the Company's condensed financial statements from credit losses for the three and six months ended June 30, 2020.

In December 2019, the FASB issued ASU No. 2019-12*, Income Taxes (Topic 740),* or ASU No. 2019-12, which amends the existing guidance relating to the accounting for income taxes. This standard is intended to simplify the accounting for income taxes by removing certain exceptions to the general principles of accounting for income taxes and to improve the consistent application of GAAP for other areas of accounting for income taxes by clarifying and amending existing guidance. The standard is effective for public business entities for fiscal years beginning after December 15, 2020, and interim periods therein. Early adoption is permitted. An entity that elects early adoption in an interim period should reflect any adjustments as of the beginning of the annual period that includes that interim period. Additionally, an entity that elects early adoption should adopt all the amendments in the same period. The Company early adopted this guidance as of January 1, 2020, and it did not have a material impact on its condensed financial statements.

3. Fair Value Measurements

The following table sets forth the Company's financial instruments that were measured at fair value on a recurring basis by level within the fair value hierarchy (in thousands):

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	June 30, 2020			
	Level 1	Level 2	Level 3	Total
Assets:				
Money market funds(1)	$ 171,546	$ —	$ —	$ 171,546
Commercial paper	—	52,429	—	52,429
Total assets	$ 171,546	$ 52,429	$ —	$ 223,975

	December 31, 2019			
	Level 1	Level 2	Level 3	Total
Assets:				
Money market funds(1)	$ 43,558	$ —	$ —	$ 43,558
Commercial paper	—	44,689	—	44,689
U.S. government securities	13,018	—	—	13,018
Total assets	$ 56,576	$ 44,689	$ —	$ 101,265

(1) This balance includes cash requirements settled on a nightly basis.

Commercial paper, money market funds and government securities are valued taking into consideration valuations obtained from third-party pricing services. The pricing services utilize industry standard valuation models, including both income and market-based approaches, for which all significant inputs are observable, either directly or indirectly, to estimate fair value. These inputs include reported trades of and broker/dealer quotes on the same or similar securities, issuer credit spreads; benchmark securities; prepayment/default projections based on historical data; and other observable inputs. There were no transfers between Levels 1, 2 or 3 for any of the periods presented.

The following table summarizes the estimated value of the Company's cash, cash equivalents and marketable securities and the gross unrealized holding gains and losses (in thousands):

	June 30, 2020			
	Amortized cost	Unrealized gains	Unrealized losses	Estimated fair value
Cash and cash equivalents:				
Money market funds(1)	$ 171,546	$ —	$ —	$ 171,546
Total cash and cash equivalents	$ 171,546	$ —	$ —	$ 171,546
Marketable securities:				
Commercial paper	$ 52,429	—	—	$ 52,429
Total marketable securities	$ 52,429	$ —	$ —	$ 52,429

(1) This balance includes cash requirements settled on a nightly basis.

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	December 31, 2019			
	Amortized cost	Unrealized gains	Unrealized losses	Estimated fair value
Cash and cash equivalents:				
Commercial paper	$ 11,780	$ —	$ —	$ 11,780
Money market funds(1)	43,558	—	—	43,558
U.S. government securities	7,998	—	—	7,998
Total cash and cash equivalents	$ 63,336	$ —	$ —	$ 63,336
Marketable securities:				
Commercial paper	$ 32,909	$ —	$ —	$ 32,909
U.S. government securities	5,021	—	(1)	5,020
Total marketable securities	$ 37,930	$ —	$ (1)	$ 37,929

(1) This balance includes cash requirements settled on a nightly basis.

There were no realized gains or losses on investments for the three and six months ended June 30, 2020 and 2019. As of June 30, 2020 and December 31, 2019, unrealized losses on marketable securities were not material, and accordingly, no allowance for credit losses were recorded. As of June 30, 2020 and December 31, 2019, all securities have a maturity of one year or less and all securities with gross unrealized losses have been in continuous loss position for less than twelve months.

4. Balance Sheet Components

Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consist of the following (in thousands):

	June 30, 2020	December 31, 2019
Prepaid insurance	$ 1,634	$ 62
Prepaid clinical trial costs	1,631	2,998
Deferred financing costs	—	1,747
Other prepaid expenses and current assets	795	402
Total prepaid expenses and other current assets	$ 4,060	$ 5,209

Accrued Liabilities

Accrued liabilities consist of the following (in thousands):

	June 30, 2020	December 31, 2019
Clinical trial accruals	$ 8,504	$ 1,497
Accrued compensation	1,694	1,379
Early exercise liability, current	208	225
Accrued expenses and other current liabilities	542	553
Total accrued liabilities	$ 10,948	$ 3,654

5. License Agreements

AstraZeneca License Agreement

In July 2018, the Company entered into an exclusive license agreement, or the AstraZeneca License Agreement, with AstraZeneca AB, or AstraZeneca, granting the Company a worldwide exclusive license, with the

right to sublicense through multiple tiers, under certain AstraZeneca-controlled patent rights, know-how and regulatory documentation, to research, develop, manufacture, commercialize and otherwise exploit products containing roflumilast in topical forms, as well as delivery systems sold with or for the administration of roflumilast, or collectively, the AZ-Licensed Products, for all diagnostic, prophylactic and therapeutic uses for human dermatological indications, or the Dermatology Field. Under this agreement, the Company has sole responsibility for development, regulatory, and commercialization activities for the AZ-Licensed Products in the Dermatology Field, at its expense, and it shall use commercially reasonable efforts to develop, obtain and maintain regulatory approvals for, and commercialize the AZ-Licensed Products in the Dermatology Field in each of the United States, Italy, Spain, Germany, the United Kingdom, France, China, and Japan.

The Company paid AstraZeneca an upfront non-refundable cash payment of $1.0 million and issued 484,388 shares of Series B preferred stock, valued at $3.0 million on the date of the AstraZeneca License Agreement. The Company subsequently paid AstraZeneca the first milestone cash payment of $2.0 million upon the completion of a Phase 2b study of roflumilast cream in plaque psoriasis in August 2019 for the achievement of positive Phase 2 data for an AZ-Licensed Product, which was recorded in research and development expense. The Company has agreed to make additional cash payments to AstraZeneca of up to an aggregate of $12.5 million upon the achievement of specified regulatory approval milestones with respect to the AZ-Licensed Products and payments up to an additional aggregate amount of $15.0 million upon the achievement of certain aggregate worldwide net sales milestones. With respect to any AZ-Licensed Products the Company commercializes under the AstraZeneca License Agreement, it will pay AstraZeneca a low to high single-digit percentage royalty rate on the Company's, its affiliates' and its sublicensees' net sales of such AZ-Licensed Products, subject to specified reductions, until, as determined on an AZ-Licensed Product-by-AZ-Licensed Product and country-by-country basis, the later of the date of the expiration of the last-to-expire AstraZeneca-licensed patent right containing a valid claim in such country and ten years from the first commercial sale of such AZ-Licensed Product in such country.

There were no payments made or due in connection with AZ-licensed Products for the three and six months ended June 30, 2020 and 2019.

Hengrui Exclusive Option and License Agreement

In January 2018, the Company entered into an exclusive option and license agreement, or the Hengrui License Agreement, with Jiangsu Hengrui Medicine Co., Ltd., or Hengrui, whereby Hengrui granted the Company an exclusive option to obtain certain exclusive rights to research, develop and commercialize products containing the compound designated by Hengrui as SHR0302, a JAK 1 inhibitor, in topical formulations for the treatment of skin diseases, disorders, and conditions in the United States, Japan, Canada and the European Union (including for clarity the United Kingdom). The Company made a $0.4 million upfront non-refundable cash payment to Hengrui upon execution of the Hengrui Option and License Agreement, which was recorded as research and development expense. In December 2019, the Company exercised its exclusive option under the agreement, for which it made a $1.5 million cash payment, which was recorded in research and development expense, and also contemporaneously amended the agreement to expand the territory to additionally include Canada. In addition, the Company has agreed to make cash payments of up to an aggregate of $20.5 million upon achievement of specified clinical development and regulatory approval milestones with respect to the licensed products and cash payments of up to an additional aggregate of $200 million in sales-based milestones based on certain aggregate annual net sales volumes with respect to a licensed product.

With respect to any products the Company commercializes under the Hengrui License Agreement, it will pay tiered royalties to Hengrui on net sales of each licensed product by the Company, or its affiliates, or its sublicensees, ranging from mid single-digit to sub-teen percentage rates based on tiered annual net sales bands subject to specified reductions. The Company is obligated to pay royalties until the later of (1) expiration of the last valid claim of the licensed patent rights covering such licensed product in such country and (2) expiration of regulatory exclusivity for the relevant licensed product in the relevant country, on a licensed product-by-licensed product and country-by-country basis. Additionally, the Company is obligated to pay Hengrui a specified percentage, ranging from the low-thirties to the sub-teens, of certain non-royalty sublicensing income it receives from sublicensees of its rights to the licensed products, such percentage decreasing as the development stage of the licensed products advance.

There were no payments made or due in connection with Hengrui for the three and six months ended June 30, 2020 and 2019.

Hawkeye Collaboration Agreement

In June 2019, the Company entered into a collaboration agreement, or Hawkeye Agreement, with Hawkeye Therapeutics, Inc., or Hawkeye, a related party with common ownership, for the development of one or more new applications of roflumilast. The Hawkeye Agreement grants Hawkeye an exclusive license to certain intellectual property developed under the agreement as it relates to the applications.

Contemporaneously with the execution of the Hawkeye Agreement, the Company entered into a stock purchase agreement, purchasing 995,000 shares of Hawkeye's common stock at $0.0001 per share, representing 19.9% of the outstanding common stock of Hawkeye. In the event that Hawkeye issues shares of Series A preferred stock with proceeds over $5.0 million, Hawkeye is required to issue to the Company a number of fully-paid fully-vested shares of common stock determined by dividing (i) $2,000,000 by (ii) an amount equal to the cash price per share for Series A preferred stock. Other than the potential issuance of this common stock, there are no upfront payments, milestones or royalties pursuant to the Hawkeye Agreement. The Company determined that Hawkeye is a variable interest entity for which consolidation is not required as it is not the primary beneficiary.

6. Commitments and Contingencies

Operating Lease

The Company leases a facility in Westlake Village, California under an operating lease that commenced in February 2019. This lease was amended in April 2020 in order to relocate to a new expanded space comprising 22,643 square feet. At the time of the amendment, the Company reassessed the lease term of the original space in accordance with the option to terminate if leasing additional space in the same property. In connection with the reduction of the lease term for the original space, the Company reduced the right-of-use asset and lease liability balance by $139,000.

The Company recognized the ROU asset and lease liability for the new space on May 1, 2020, which was determined to be the lease commencement date. The lease payments begin upon the earlier of Company occupying the space or 15 days after tenant improvements are complete, and terminate 91 months thereafter, with a renewal option for a term of five years. The Company will have a one-time option to cancel the lease after month 67. The renewal and one-time cancellation options have not been considered in the determination of the ROU asset or lease liability as the Company did not consider it reasonably certain it would exercise these options.

The lease is subject to fixed rate escalation increases with an initial base rent of $76,000 per month and includes rent free periods aggregating approximately 1 year. As a result, the Company recognizes rent expense on a straight-line basis for the full amount of the commitment including the minimum rent increases over the life of the lease and the free rent period. The amended lease agreement provides for a tenant improvement allowance up to $1.25 million. It also requires the Company to have an available letter of credit of $1.5 million upon occupying the space, which is allowed to be reduced throughout the lease period as rent obligations are met.

In association with commencement of this new lease, the Company recorded lease liabilities and off-setting ROU assets of $3.6 million on its condensed balance sheet as of June 30, 2020. Since the Company is reasonably certain to incur costs equal to or exceeding the tenant improvement allowance of $1.25 million, the allowance is treated as a lease incentive that is payable to the Company at the lease commencement date. Accordingly, the tenant improvement allowance is included in the measurement of the consideration in the contract at commencement, and is recognized as a reduction in the right-of-use asset and lease liability. Upon completion, the tenant improvements will be reclassified from the lease liability to fixed assets and depreciated over the term of the lease.

The minimum annual rental payments of the Company's operating lease liability as of June 30, 2020 are as follows (in thousands):

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	Amounts
2020 (July through December)	$ 81
2021	172
2022	803
2023	967
2024	997
Thereafter	3,733
Total minimum lease payments	$ 6,753
Less: Amounts representing interest	(1,818)
Less: Tenant improvement allowance	(1,245)
Present value of future minimum lease payments	$ 3,690
Current portion operating lease liability	80
Operating lease liability, noncurrent	3,610
Total operating lease liability	$ 3,690

Straight-line rent expense recognized for operating leases was $150,000 and $193,000 for the three and six months ended June 30, 2020, respectively, and $42,000 and $66,000 for the three and six months ended June 30, 2019, respectively. There were no significant variable lease payments, including non-lease components such as common area maintenance fees, recognized as rent expense for operating leases for the three and six months ended June 30, 2020 and 2019.

The following information represents supplemental disclosure for the statement of cash flows related to the Company's operating lease (in thousands):

	Six Months Ended June 30,	
	2020	2019
Cash flows from operating activities		
Cash paid for amounts included in the measurement of lease liabilities	$ 96	$ 47

The following summarizes additional information related to the operating lease:

	June 30, 2020
Weighted-average remaining lease term (in years)	7.8
Weighted-average discount rate	7.0 %

Indemnification

In the ordinary course of business, the Company enters into agreements that may include indemnification provisions. Pursuant to such agreements, the Company may indemnify, hold harmless and defend an indemnified party for losses suffered or incurred by the indemnified party. Some of the provisions will limit losses to those arising from third party actions. In some cases, the indemnification will continue after the termination of the agreement. The maximum potential amount of future payments the Company could be required to make under these provisions is not determinable. The Company has never incurred material costs to defend lawsuits or settle claims related to these indemnification provisions. The Company has also entered into indemnification agreements with its directors and officers that may require the Company to indemnify its directors and officers against liabilities that may arise by reason of their status or service as directors or officers to the fullest extent permitted by California corporate law. The Company currently has directors' and officers' insurance coverage that reduces its exposure and enables the Company to recover a portion of any future amounts paid. The Company believes the estimated fair value of these indemnification agreements in excess of applicable insurance coverage is minimal.

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7. Convertible Preferred Stock and Stockholders' Equity (Deficit)

Convertible preferred stock as of December 31, 2019 consisted of the following (in thousands, except share amounts):

Convertible Preferred Stock	Shares Authorized	Shares Issued and Outstanding	Net Carrying Value	Liquidation Preference
Series A	13,800,000	6,897,575	$ 14,340	$ 13,800
Series B	18,736,270	9,364,850	57,912	58,000
Series C	16,251,628	8,122,963	94,239	94,500
Total	48,787,898	24,385,388	$ 166,491	$ 166,300

In connection with the Company's IPO in February 2020, all of the Company's outstanding shares of convertible preferred stock were automatically converted into 24,385,388 shares of common stock.

In October 2019, the Company issued 8,122,963 shares of Series C convertible preferred stock at a purchase price of $11.63 per share for total gross proceeds of $94.5 million, some of which were to related parties.

In September 2018, the Company issued 9,364,850 shares of Series B convertible preferred stock at a purchase price of $6.19 per share for total proceeds of $57.9 million, some of which were to related parties.

In April 2017, the Company entered into a Stock Purchase Agreement with investors, some of which were related parties, to issue 5,398,111 shares of Series A convertible preferred stock at $2.00 per share in three tranches. The first tranche, consisting of 3,590,845 shares for net proceeds of $7.1 million, was completed upon execution of the agreement. Additionally, the Company issued 149,946 shares of Series A convertible preferred stock as a result of the conversion of convertible promissory notes with an outstanding principal amount of $154,000 and the settlement of the derivative liability of $150,000.

The Series A investors were also granted freestanding rights to participate in additional tranches to raise a minimum of $3.3 million, upon election by the board of directors including at least one of the Series A directors, by purchasing 1,657,314 shares of Series A convertible preferred stock at $2.00 per share in two tranches, provided such election occurred prior to April 2019. The two tranches consisted of 828,654 shares and 828,660 shares, respectively. The Company concluded that the investors' rights to purchase Series A convertible preferred shares met the definition of a freestanding financial instrument, as they were legally detachable and separately exercisable from the Series A convertible preferred stock, or the Series A Convertible Preferred Stock Liability. As the Series A Convertible Preferred Stock Liability was redeemable at the election of holders of the then-outstanding shares, it represented a liability to be accounted for at fair value and remeasured at each reporting period.

Changes in fair value were recognized as a gain or loss in other income (expense), net in the statements of operations. On the closing of the first tranche in April 2017, the Company recorded the initial fair value of the Series A Convertible Preferred Stock Liability of $219,000 for the second and the third tranche participating rights by reducing the carrying value of Series A convertible preferred stock.

In March 2018, the Company completed the second tranche closing and issued 3,156,784 shares of Series A convertible preferred stock to the investors at a purchase price of $2.00 per share for net proceeds of $6.3 million. The Series A Convertible Preferred Stock Liability was remeasured to fair value just prior to settlement and the carrying value of the liability of $891,000 was reclassified to Series A convertible preferred stock. Concurrently with the closing of the second tranche, the Company amended the Series A convertible preferred stock purchase agreement to merge the second and third tranches and increased the maximum number of shares to be issued in the second tranche to 3,156,784 shares.

Common Stock

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The holders of the Company's common stock have one vote for each share of common stock. Common stockholders are entitled to dividends when, as, and if declared by the board of directors. The holders have no preemptive or other subscription rights and there are no redemption or sinking fund provisions with respect to such shares. As of June 30, 2020, no dividends had been declared by the board of directors.

The Company reserved the following shares of common stock for issuance as follows:

	June 30, 2020	December 31, 2019
Convertible preferred stock outstanding	—	24,385,388
Options issued and outstanding	3,244,771	2,516,470
Common stock awards available for grant under employee benefit plans	3,033,903	1,550,150
Restricted stock units outstanding	130,060	—
Total common stock reserved	6,408,734	28,452,008

Authorized Share Capital

On February 4, 2020, the Company's certificate of incorporation was amended and restated to provide for 300,000,000 authorized shares of common stock with a par value of $0.0001 per share and 10,000,000 authorized shares of preferred stock with a par value of $0.0001 per share. There were no shares of preferred stock outstanding as of June 30, 2020 and December 31, 2019.

8. Stock-Based Compensation

In January 2020, the Company's board of directors approved the 2020 Equity Incentive Plan, or the 2020 Plan, which became effective January 30, 2020 in connection with the IPO. The 2020 Plan serves as the successor incentive award plan to the Company's 2017 Equity Incentive Plan, or the 2017 Plan, and has 2,134,000 shares of common stock available for issuance pursuant to a variety of stock-based compensation awards, including stock options, stock appreciation rights, restricted stock awards, restricted stock unit awards and other stock-based awards, plus 1,550,150 shares of common stock that were reserved for issuance pursuant to future awards under the 2017 Plan at the time the 2020 Plan became effective, plus shares represented by awards outstanding under the 2017 Plan that are forfeited or lapsed unexercised and which following the effective date of the 2020 Plan are not issued under the 2017 Plan. In addition, the 2020 Plan reserve will increase on January 1, 2021 and each subsequent anniversary through 2030, by an amount equal to the lesser of (a) four percent of the shares of stock outstanding (on an as converted basis) on the day immediately prior to the date of increase and (b) such smaller number of shares of stock as determined by our board of directors; provided, however, that no more than 11,000,000 shares of stock may be issued upon the exercise of incentive stock options. As of June 30, 2020, the Company had 2,702,765 shares available for future grant under the 2020 Plan.

The 2020 Plan provides for the Company to sell or issue common stock or restricted common stock, or to grant incentive stock options or nonqualified stock options for the purchase of common stock, to employees, members of the board of directors and consultants of the Company under terms and provisions established by the board of directors. Under the terms of the 2020 Plan, options may be granted at an exercise price not less than fair market value. The Company generally grants stock-based awards with service conditions. Options granted typically vest over a four-year period but may be granted with different vesting terms.

Following the Company's IPO and in connection with the effectiveness of the Company's 2020 Plan, the 2017 Plan terminated and no further awards will be granted under that plan. However, all outstanding awards under the 2017 Plan will continue to be governed by their existing terms.

Stock Option Activity

The following summarizes option activity (in thousands, except share amounts):

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	Number of Options		Weighted-Average Exercise Price	Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Balance—December 31, 2019	2,516,470		$ 3.47	9.44	$ 7,673
Granted	851,325		$ 27.68		
Exercised	(123,024)		$ 2.22		
Balance—June 30, 2020	3,244,771		$ 9.87	9.15	$ 66,436
Exercisable—June 30, 2020	1,411,813	(1)	$ 6.74	9.05	$ 33,176

(1) Options exercisable includes early exercisable options.

The aggregate intrinsic value is calculated as the difference between the exercise price of the options and the fair value of the Company's common stock as of June 30, 2020. As of December 31, 2019, prior to the Company's IPO, the estimated fair value of the Company's common stock was determined by the board of directors.

The intrinsic value of options exercised for the six months ended June 30, 2020 was $1.9 million.

The total grant-date fair value of the options vested during the six months ended June 30, 2020 was $890,000. The weighted-average grant-date fair value of employee options granted during the six months ended June 30, 2020 was $18.71.

Restricted Stock Unit Activity

The following table summarizes information regarding our restricted stock units (RSUs):

	Number of Units	Weighted-Average Grant Date Fair Value
Balance—December 31, 2019	—	$ —
Granted	130,060	$ 27.61
Vested	—	$ —
Forfeited	—	$ —
Unvested Balance—June 30, 2020	130,060	$ 27.61

The grant date fair value of an RSU equals the closing price of our common stock on the grant date. RSUs generally vest equally over 4 years. There were no RSU grants prior to January 1, 2020.

Stock-Based Compensation Expense

Stock-based compensation expense recognized in our condensed statements of operations and comprehensive loss was as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Research and development	$ 726	$ 57	$ 1,142	$ 88
General and administrative	1,323	82	1,897	127
Total stock-based compensation expense	$ 2,049	$ 139	$ 3,039	$ 215

As of June 30, 2020, there was $18.9 million of total unrecognized compensation cost related to unvested options that are expected to vest, which is expected to be recognized over a weighted-average period of 3.4 years.

As of June 30, 2020, there was $3.3 million of total unrecognized compensation cost related to RSUs that is expected to vest, which is expected to be recognized over a weighted-average period of 3.7 years.

In determining the fair value of the stock options granted, the Company uses the Black-Scholes option-pricing model and assumptions discussed below. Each of these inputs is subjective and generally requires significant judgment.

Fair value of common stock— For options granted prior to IPO in the year ended December 31, 2019, given the absence of a public trading market, the Company's board of directors with input from management considered numerous objective and subjective factors to determine the fair value of common stock. The factors included, but were not limited to: (i) third-party valuations of the Company's common stock; (ii) the Company's stage of development; (iii) the status of research and development efforts; (iv) the rights, preferences and privileges of the Company's convertible preferred stock relative to those of the Company's common stock; (v) the Company's operating results and financial condition, including the Company's levels of available capital resources; and (vi) equity market conditions affecting comparable public companies; (vii) general U.S. market conditions; and (viii) the lack of marketability of the Company's common stock. For options granted after IPO, the Company uses its closing stock price as reported on Nasdaq on the grant date for the fair value of its stock.

Expected Term—The Company's expected term represents the period that the Company's stock-based awards are expected to be outstanding. The Company used the simplified method (based on the mid-point between the vesting date and the end of the contractual term) to determine the expected term.

Expected Volatility—Since the Company does not have sufficient trading history for its common stock, the expected volatility was estimated based on the average historical volatilities for comparable publicly traded pharmaceutical companies over a period equal to the expected term of the stock option grants. The comparable companies were chosen based on their similar size, stage in the life cycle and area of specialty. The Company will continue to apply this process until a sufficient amount of historical information regarding the volatility of its own stock price becomes available.

Risk-Free Interest Rate—The risk-free interest rate is based on the U.S. Treasury zero coupon issues in effect at the time of grant for periods corresponding with the expected term of option.

Dividend Yield—The Company has never paid dividends on its common stock and has no plans to pay dividends on its common stock. Therefore, the Company used an expected dividend yield of zero.

The fair value of stock option awards granted was estimated at the date of grant using a Black-Scholes option-pricing model with the following assumptions:

	Six Months Ended June 30, 2020	Year Ended December 31, 2019
Expected term (in years)	5.5 – 6.2	5.1 – 6.6
Expected volatility	78.4 – 80.6%	68.6 – 72.5%
Risk-free interest rate	0.4 – 1.4%	1.6 – 2.6%
Dividend yield	—%	—%

Early Exercise of Employee Options

The terms of the 2017 and 2020 Plans permit certain option holders to exercise options before their options are vested, subject to certain limitations. Upon early exercise, the awards become subject to a restricted stock agreement. The shares of restricted stock granted upon early exercise of the options are subject to the same vesting provisions in the original stock option awards. Shares issued as a result of early exercise that have not vested are subject to repurchase by the Company upon termination of the purchaser's employment, at the price paid by the purchaser. While such shares have been issued, they are not considered outstanding for accounting purposes until they vest and are therefore excluded from shares used in determining loss per share until the repurchase right lapses and the shares are no longer subject to the repurchase feature. The liability is reclassified into common stock and additional paid-in capital as the shares vest and the repurchase right lapses. Accordingly,

the Company has recorded the unvested portion of the exercise proceeds of $364,000 and $409,000 as a liability from the early exercise in the accompanying balance sheets as of June 30, 2020 and December 31, 2019, respectively. As of June 30, 2020 and December 31, 2019, there were $208,000 and $225,000 recorded in accrued liabilities, respectively, and $156,000 and $184,000 recorded in other long-term liabilities, respectively related to shares that were subject to repurchase.

Founder Awards

In August 2016, the Company issued 1,187,738 shares of restricted common stock to founders of which 1,102,903 shares vest under a service condition and 84,835 shares vest under a performance condition. The shares were issued under the terms of the respective restricted stock purchase agreements, or the Stock Purchase Agreement, and unvested shares were subject to repurchase by the Company at the original purchase price per share upon the holder's termination of his relationship with the Company. The restricted shares were not considered outstanding for accounting purposes until they vest and are therefore excluded from shares used in determining loss per share until the repurchase right lapses and the shares are no longer subject to the repurchase feature. One-fourth of the 1,102,903 shares of restricted common stock were vested on the first-anniversary date and the remaining 827,177 shares will vest on a monthly basis thereafter. In July 2018, performance conditions prescribed by the Stock Purchase Agreement were met and 84,835 shares of the restricted common stock were fully vested. As of December 31, 2019, 1,049,875 shares subject to the award had vested, and an additional 137,863 shares vested during the six months ended June 30, 2020. As of June 30, 2020, all shares of restricted stock subject to the award had been vested.

2020 Employee Stock Purchase Plan

The Company adopted the 2020 Employee Stock Purchase Plan, or the ESPP, which became effective on January 30, 2020 in connection with the IPO. The ESPP is designed to allow the Company's eligible employees to purchase shares of the Company's common stock, at semi-annual intervals, with their accumulated payroll deductions. Under the ESPP, participants are offered the option to purchase shares of the Company's common stock at a discount during a series of successive offering periods. The option purchase price will be the lower of 85% of the closing trading price per share of the Company's common stock on the first trading date of an offering period in which a participant is enrolled or 85% of the closing trading price per share on the purchase date, which will occur on the last trading day of each offering period.

The ESPP is intended to qualify under Section 423 of the U.S. Internal Revenue Service Code of 1986, as amended. The maximum number of the Company's common stock which will be authorized for sale under the ESPP is equal to the sum of (a) 351,000 shares of common stock and (b) an annual increase on the first day of each year beginning in 2021 and ending in 2030, equal to the lesser of (i) 1% of the shares of common stock outstanding (on an as converted basis) on the last day of the immediately preceding fiscal year and (ii) such number of shares of common stock as determined by the Company's board of directors; provided, however, no more than 5,265,000 shares of the Company's common stock may be issued under the ESPP.

The Company commenced an offering period on January 31, 2020, which ended on May 31, 2020, and resulted in 19,862 shares of stock being issued under the ESPP during the six months ended June 30, 2020. Subsequently, the Company commenced another offering period on June 1, 2020, which will end on November 30, 2020. Stock-based compensation expense related to the ESPP was $94,000 and $161,000 for the three and six months ended June 30, 2020, respectively.

ARCUTIS BIOTHERAPEUTICS, INC.
Notes to Condensed Financial Statements
(unaudited)

9. Net Loss Per Share

The following outstanding potentially dilutive shares have been excluded from the calculation of diluted net loss per share for the periods presented due to their anti-dilutive effect:

	As of June 30,	
	2020	2019
Convertible preferred stock on an as-converted basis	—	16,262,425
Stock options to purchase common stock	3,244,771	1,756,085
Early exercised options subject to future vesting	499,235	612,395
RSU's subject to future vesting	130,060	—
ESPP shares subject to future issuance	5,933	—
Restricted stock subject to future vesting	—	275,726
Total	3,879,999	18,906,631

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

The following discussion and analysis of our financial condition and results of operations should be read together with our unaudited condensed financial statements and related notes appearing elsewhere in this Quarterly Report on Form 10-Q, and the audited financial statements and notes thereto as of and for the year ended December 31, 2019 and the related Management's Discussion and Analysis of Financial Condition and Results of Operations, both of which are contained in our Annual Report on Form 10-K for the year ended December 31, 2019, which has been filed with the Securities and Exchange Commission. Some of the information contained in this discussion and analysis or set forth elsewhere in this Quarterly Report on Form 10-Q, including information with respect to our plans, objectives, expectations, projections and strategy for our business, includes forward-looking statements that involve risks and uncertainties. These statements are often identified by the use of words such as "may," "will," "expect," "believe," "anticipate," "intend," "could," "should," "estimate," or "continue," and similar expressions or variations. Such forward-looking statements are subject to risks, uncertainties and other factors that could cause actual results and the timing of certain events to differ materially from future results expressed or implied by such forward-looking statements. As a result of many factors, including those factors identified below and those set forth in the "Risk Factors" section of this Quarterly Report on Form 10-Q, our actual results and the timing of selected events could differ materially from the forward-looking statements contained in the following discussion and analysis.

Overview

We are a late-stage biopharmaceutical company focused on developing and commercializing treatments for dermatological diseases with high unmet medical needs. Our current portfolio is comprised of topical treatments with significant potential to address immune-mediated dermatological diseases and conditions, or immuno-dermatology. Our strategy is to identify and develop treatments against validated biological targets in dermatology that deliver a differentiated clinical profile that addresses major shortcomings of existing therapies in our targeted indications. We believe this strategy uniquely positions us to rapidly progress towards our goal of bridging the treatment innovation gap in dermatology, while maximizing our probability of technical success and financial resources.

Our lead product candidate, topical roflumilast cream (ARQ-151), is in Phase 3 clinical trials in plaque psoriasis. Roflumilast cream is a topical cream formulation of roflumilast, a highly potent and selective phosphodiesterase type 4, or PDE4, inhibitor, which we are developing for the treatment of plaque psoriasis, including psoriasis in intertriginous regions such as the groin, axillae, and inframammary areas, as well as atopic dermatitis. In July 2018, we executed a worldwide licensing agreement with AstraZeneca AB, or AstraZeneca, for exclusive worldwide rights to all topical dermatological uses of roflumilast. We have successfully completed a Phase 2b study of roflumilast cream in plaque psoriasis, and, in August 2019, paid AstraZeneca the first milestone payment of $2.0 million that was earned upon the achievement of positive Phase 2 data for any AZ-Licensed Product (as defined in "—License Agreements—AstraZeneca License Agreement"). We have initiated three Phase 3 studies in plaque psoriasis, including two pivotal studies (DERMIS-1 and DERMIS-2) and an open label extension study (DERMIS-OLE), with topline data expected in the first half of 2021. The open label extension study has completed enrollment. We have also completed enrollment in a long-term safety study of roflumilast cream in plaque psoriasis patients, reported positive preliminary data for cohort 1, and expect to report topline data for the full study population from both cohorts 1 and 2 in the first quarter of 2021. We have also completed a Phase 2 proof of concept study of roflumilast cream in atopic dermatitis (AD) and plan to initiate a Phase 2b study in AD in the second half of 2020, with topline results expected in the second half of 2021. Additionally, we are developing ARQ-154, a topical foam formulation of roflumilast cream, and have completed enrollment in a Phase 2 proof of concept study in seborrheic dermatitis and a Phase 2b study in scalp psoriasis. We expect to report topline data from both of these studies in the fourth quarter of 2020.

Beyond this, we also initiated a Phase1/2b clinical study of ARQ-252, a potent and highly selective topical Janus kinase type 1, or JAK1, inhibitor for the treatment of chronic hand eczema. We have completed the Phase 1 portion of this clinical study and commenced the Phase 2b portion, and expect topline data in the second half of 2021. We also plan to initiate a clinical study of ARQ-252 in vitiligo in the second half of 2020. Additionally, we have formulation and preclinical efforts underway for ARQ-255, an alternative topical formulation of ARQ-252 designed to reach deeper into the skin in order to potentially treat alopecia areata. In January 2018, we executed an exclusive option and license agreement with Jiangsu Hengrui Medicine Co., Ltd. of China, or Hengrui, to the active pharmaceutical ingredient in ARQ-252 and ARQ-255 for all topical formulations for dermatological uses in the

United States, Canada, Europe and Japan. In December 2019, we exercised our exclusive option associated with this agreement, for which we made a $1.5 million cash payment, and also contemporaneously amended the agreement to expand the territory to additionally include Canada.

Since our inception in 2016, we have invested a significant portion of our efforts and financial resources in clinical development activities. We have not generated any revenue from product sales and, prior to our IPO completed in January 2020, have funded our operations primarily with $162.5 million in net cash proceeds from private placements of our convertible preferred stock. On February 4, 2020, we closed our IPO of 10,781,250 shares of common stock at an offering price of $17.00 per share, which included the exercise in full by the underwriters of their option to purchase up to 1,406,250 additional shares of common stock. Our net proceeds, after deducting underwriting discounts, commissions and offering related transaction costs, were $167.2 million.

We have incurred net losses in each year since inception, including net losses of $35.4 million and $63.4 million for the three and six months ended June 30, 2020, respectively, and $8.3 million and $14.9 million for the three and six months ended June 30, 2019, respectively. As of June 30, 2020, we had an accumulated deficit of $129.7 million and cash, cash equivalents and marketable securities of $224.0 million.

We expect to continue to incur losses for the foreseeable future and expect to incur increased expenses as we advance our product candidates through clinical trials and regulatory submissions. We do not expect to generate revenue from product sales unless, and until, we obtain regulatory approval or clearance from the Food and Drug Administration (FDA) or other foreign regulatory authorities for our product candidates. If we obtain regulatory approval or clearance for our product candidates, we expect to incur significant commercialization expenses related to product sales, marketing, manufacturing and distribution. In addition, we expect that our expenses will increase substantially as we continue preclinical studies and clinical trials for, and research and development of, our product candidates and maintain, expand and protect our intellectual property portfolio. As a result, we will need substantial additional funding to support our operating activities. Adequate funding may not be available to us on acceptable terms, or at all. We currently anticipate that we will seek to fund our operations through equity or debt financings or other sources, such as future potential collaboration agreements. Our failure to obtain sufficient funds on acceptable terms as and when needed could have a material adverse effect on our business, results of operations and financial condition. See “—Liquidity, Capital Resources and Requirements” below and Note 1 to the unaudited condensed financial statements for additional information. Based on our current planned operations, we expect our current cash, cash equivalents, and marketable securities will be sufficient to fund our operations through 2021.

We rely on third parties in the conduct of our preclinical studies and clinical trials and for manufacturing and supply of our product candidates. We have no internal manufacturing capabilities, and we will continue to rely on third parties, many of whom are single-source suppliers, for our preclinical and clinical trial materials, as well as the commercial supply of our products. In addition, we do not yet have a sales organization or commercial infrastructure. Accordingly, we expect to incur significant expenses to develop a sales organization or commercial infrastructure in advance of generating any product sales.

COVID-19 Update

In March 2020, the World Health Organization declared a pandemic related to the global novel coronavirus disease 2019 (COVID-19) outbreak. COVID-19 has placed strains on the providers of healthcare services, including the sites where we conduct our clinical trials. These strains have resulted in some clinical sites slowing or halting enrollment in clinical trials and restricting the on-site monitoring of clinical trials. We follow FDA guidance on clinical trial conduct during the COVID-19 pandemic, including the remote monitoring of clinical data. We are monitoring the potential impact COVID-19 may have on the clinical development of our product candidates, including potential delays or modifications to ongoing and planned trials. Thus far, we have seen limited impact on our clinical trials including some disruptions in screening, enrollment and monitoring, however at this time, we do not expect delays to previously disclosed clinical timelines, including those for roflumilast cream, roflumilast foam and ARQ-252. We cannot, at this time, predict the specific extent, duration, or full impact that the COVID-19 outbreak will have on our ongoing and planned clinical trials and other business operations.

There have been no disruptions in our supply chain of drug manufacturers necessary to conduct our clinical trials and, given our drug inventories, we believe that we will be able to supply the drug needs of our ongoing clinical studies.

In alignment with public health guidance designed to slow the spread of COVID-19, we implemented a remote work plan for all employees as of mid-March 2020. We may need to undertake additional actions that could impact our operations as required by applicable laws or regulations, or which we determine to be in the best interests of our employees.

License Agreements

AstraZeneca License Agreement

In July 2018, we entered into an exclusive license agreement, or the AstraZeneca License Agreement, with AstraZeneca, granting us a worldwide exclusive license, with the right to sublicense through multiple tiers, under certain AstraZeneca-controlled patent rights, know-how and regulatory documentation, to research, develop, manufacture, commercialize and otherwise exploit products containing roflumilast in topical forms, as well as delivery systems sold with or for the administration of roflumilast, or collectively, the AZ-Licensed Products, for all diagnostic, prophylactic and therapeutic uses for human dermatological indications, or the Dermatology Field. Under this agreement, we have sole responsibility for development, regulatory, and commercialization activities for the AZ-Licensed Products in the Dermatology Field, at our expense, and we shall use commercially reasonable efforts to develop, obtain and maintain regulatory approvals for, and commercialize the AZ-Licensed Products in the Dermatology Field in each of the United States, Italy, Spain, Germany, the United Kingdom, France, China, and Japan.

We paid AstraZeneca an upfront non-refundable cash payment of $1.0 million and issued 484,388 shares of our Series B Preferred stock, valued at $3.0 million on the date of the AstraZeneca License Agreement. We subsequently paid AstraZeneca the first milestone cash payment of $2.0 million upon the completion of a Phase 2b study of roflumilast cream in plaque psoriasis in August 2019 for the achievement of positive Phase 2 data for an AZ-Licensed Product. We have agreed to make additional cash payments to AstraZeneca of up to an aggregate of $12.5 million upon the achievement of specific regulatory approval milestones with respect to the AZ-Licensed Products and payments up to an additional aggregate amount of $15.0 million upon the achievement of certain aggregate worldwide net sales milestones. With respect to any AZ-Licensed Products we commercialize under the AstraZeneca License Agreement, we will pay AstraZeneca a low to high single-digit percentage royalty rate on our, our affiliates' and our sublicensees' net sales of such AZ-Licensed Products, until, as determined on an AZ-Licensed Product-by-AZ-Licensed Product and country-by-country basis, the later of the date of the expiration of the last-to-expire AstraZeneca-licensed patent right containing a valid claim in such country and ten years from the first commercial sale of such AZ-Licensed Product in such country. See Note 5 to the unaudited condensed financial statements for additional information.

Hengrui Exclusive Option and License Agreement

In January 2018, we entered into an exclusive option and license agreement, or Hengrui License Agreement, with Hengrui, whereby Hengrui granted us an exclusive option to obtain certain exclusive rights to research, develop and commercialize products containing the compound designated by Hengrui as SHR0302, a JAK 1 inhibitor, in topical formulations for the treatment of skin diseases, disorders, and conditions in the United States, Canada, Japan, and the European Union (including for clarity the United Kingdom). We made a $0.4 million upfront non-refundable cash payment to Hengrui upon execution of the Hengrui Option and License Agreement. In December 2019, we exercised our exclusive option under the agreement, for which we made a $1.5 million cash payment, and also contemporaneously amended the agreement to expand the territory to additionally include Canada. In addition, we have agreed to make cash payments of up to an aggregate of $20.5 million upon our achievement of specified clinical development and regulatory approval milestones with respect to the licensed products and cash payments of up to an additional aggregate of $200.0 million in sales-based milestones based on achieving certain aggregate annual net sales volumes with respect to a licensed product. With respect to any products we commercialize under the Hengrui License Agreement, we will pay tiered royalties to Hengrui on net sales of each licensed product by us, or our affiliates, or our sublicensees, ranging from mid single-digit to sub-teen percentage rates based on tiered annual net sales bands subject to specified reductions. We are obligated to pay royalties until the later of (1) expiration of the last valid claim of the licensed patent rights covering such licensed product in such country and (2) the expiration of regulatory exclusivity for the relevant licensed product in the relevant country, on a licensed product-by-licensed product and country-by-country basis. Additionally, we are obligated to pay Hengrui a specified percentage, ranging from the low-thirties to the sub-teens, of certain non-royalty sublicensing income we receive from sublicensees of our rights to the licensed products, such percentage

decreasing as the development stage of the licensed products advance. See Note 5 to the unaudited condensed financial statements for additional information.

Hawkeye Collaboration Agreement

In June 2019, we entered into a collaboration agreement, or the Hawkeye Agreement, with Hawkeye Therapeutics, Inc., or Hawkeye, a related party with common ownership, to collaborate on the research and development of one or more new applications of roflumilast. The Hawkeye Agreement grants Hawkeye an exclusive license to certain intellectual property developed under the agreement as it relates to the applications.

Contemporaneously with the execution of the Hawkeye Agreement, we entered into a stock purchase agreement, purchasing 995,000 shares of Hawkeye's common stock at $0.0001 per share, representing 19.9% of the outstanding common stock of Hawkeye. See Note 5 to the unaudited condensed financial statements for additional information.

Components of Our Results of Operations

Operating Expenses

Research and Development Expenses

Since our inception, we have focused significant resources on our research and development activities, including conducting preclinical studies and clinical trials, manufacturing development efforts and activities related to regulatory filings for our product candidates. Research and development costs are expensed as incurred. These costs include direct program expenses, which are payments made to third parties that specifically relate to our research and development, such as payments to clinical research organizations, clinical investigators, manufacturing of clinical material, preclinical testing and consultants. In addition, employee costs, including salaries, payroll taxes, benefits, stock-based compensation and travel, for employees contributing to research and development activities are classified as research and development costs. We allocate direct external costs to our product candidates; internal costs are not allocated to specific product candidates.

We expect to continue to incur substantial research and development expenses in the future as we develop our product candidates. In particular, we expect to incur substantial research and development expenses for the Phase 3 trials (DERMIS-1, DERMIS-2, and DERMIS-OLE) of roflumilast cream for plaque psoriasis, the preclinical studies and clinical trials for the continued development of roflumilast cream for atopic dermatitis, roflumilast foam for seborrheic dermatitis and scalp psoriasis, ARQ-252 for hand eczema and vitiligo, and ARQ-255 for alopecia areata.

We have entered, and may continue to enter, into license agreements to access and utilize certain molecules for the treatment of dermatological diseases and disorders. We evaluate if the license agreement is an acquisition of an asset or a business. To date, none of our license agreements have been considered to be an acquisition of a business. For asset acquisitions, the upfront payments to acquire such licenses, as well as any future milestone payments made before product approval, are immediately recognized as research and development expense when due, provided there is no alternative future use of the rights in other research and development projects.

The successful development of our product candidates is highly uncertain. At this time, we cannot reasonably estimate the nature, timing or costs required to complete the remaining development of roflumilast cream, roflumilast foam, ARQ-252 and ARQ-255 or any future product candidates. This is due to the numerous risks and uncertainties associated with the development of product candidates. See "Risk Factors" for a discussion of the risks and uncertainties associated with the development of our product candidates.

General and Administrative Expenses

Our general and administrative expenses consist primarily of salaries and related costs, including payroll taxes, benefits, stock-based compensation and travel. Other general and administrative expenses include legal costs of pursuing patent protection of our intellectual property, insurance, and professional services fees for auditing, tax and general legal services. We expect our general and administrative expenses to continue to increase

in the future as we expand our operating activities and prepare for potential commercialization of our product candidates, increase our headcount and support our operations as a public company, including increased expenses related to legal, accounting, insurance, regulatory and tax-related services associated with maintaining compliance with exchange listing and Securities and Exchange Commission requirements, directors and officers liability insurance premiums and investor relations activities.

Other Income (Expense), Net

Other income (expense), net primarily consists of interest income earned on our cash, cash equivalents, and marketable securities.

Results of Operations

Comparison of the Three Months Ended June 30, 2020 and 2019

The following table sets forth our results of operations for the periods indicated:

	Three Months Ended June 30,		Change	
	2020	2019	$	%
	(unaudited) (in thousands)			
Operating expenses:				
Research and development	$ 30,009	$ 7,214	$ 22,795	316 %
General and administrative	5,618	1,324	4,294	324 %
Total operating expenses	$ 35,627	$ 8,538	$ 27,089	317 %
Loss from operations	(35,627)	(8,538)	(27,089)	317 %
Other income, net	215	248	(33)	(13)%
Net loss	$ (35,412)	$ (8,290)	$ (27,122)	327 %

Research and Development Expenses

	Three Months Ended June 30,		Change	
	2020	2019	$	%
	(unaudited) (in thousands)			
Direct Costs:				
Preclinical and clinical	$ 22,691	$ 4,416	$ 18,275	414 %
Manufacturing	2,803	1,427	1,376	96 %
Indirect Costs:				
Compensation and personnel-related	3,109	1,049	2,060	196 %
Other	1,406	322	1,084	337 %
Total research and development expense	$ 30,009	$ 7,214	$ 22,795	316 %

Research and development expenses increased by $22.8 million, or 316%, for the three months ended June 30, 2020 compared to the three months ended June 30, 2019. The increase was due to an increase in clinical trial costs of $18.3 million, an increase in compensation and personnel-related expenses of $2.1 million, an increase in manufacturing costs of $1.4 million, and an increase of $1.1 million in other costs, including regulatory, research and clinical consulting costs. The increases in clinical trial and manufacturing costs relate to new and ongoing studies of roflumilast cream, including three Phase 3 studies of roflumilast cream for plaque psoriasis and a Phase 1 pediatric study of roflumilast cream for atopic dermatitis. Additionally, in the current year, there were costs related to the initiation of the Phase 2b study of roflumilast foam for scalp psoriasis, a Phase 2 Proof of Concept clinical trial of roflumilast foam for seborrheic dermatitis, and a Phase 1/2b study of ARQ-252 in hand eczema. The increase in compensation and personnel-related expenses, which includes stock compensation, was primarily due to an increase in headcount.

General and Administrative Expenses

General and administrative expenses increased by $4.3 million, or 324%, for the three months ended June 30, 2020 compared to the three months ended June 30, 2019. The increase was primarily due to an increase in compensation and personnel-related expenses of $2.0 million, an increase in professional services of $1.4 million, and an increase in insurance costs of $0.7 million. The increase in compensation and personnel-related expenses,

which includes stock compensation, was due to an increase in headcount. The increases in professional services and insurance costs were mainly due to the costs associated with being a public company.

Other Income, Net

Other income, net decreased by $33,000, or 13%, for the three months ended June 30, 2020 compared to the three months ended June 30, 2019 . The decrease was due to a decrease in the yield on our investment portfolio, partially offset by higher balances.

Comparison of the Six Months Ended June 30, 2020 and 2019

The following table sets forth our results of operations for the periods indicated:

	Six Months Ended June 30,		Change	
	2020	2019	$	%
	(unaudited) (in thousands)			
Operating expenses:				
Research and development	$ 55,191	$ 13,417	$ 41,774	311 %
General and administrative	9,087	2,073	7,014	338 %
Total operating expenses	$ 64,278	$ 15,490	$ 48,788	315 %
Loss from operations	(64,278)	(15,490)	(48,788)	315 %
Other income, net	853	542	311	57 %
Net loss	$ (63,425)	$ (14,948)	$ (48,477)	324 %

Research and Development Expenses

	Six Months Ended June 30,		Change	
	2020	2019	$	%
	(unaudited) (in thousands)			
Direct Costs:				
Preclinical and clinical	$ 41,427	$ 8,743	$ 32,684	374 %
Manufacturing	6,057	2,119	3,938	186 %
Indirect Costs:				
Compensation and personnel-related	5,376	1,871	3,505	187 %
Other	2,331	684	1,647	241 %
Total research and development expense	$ 55,191	$ 13,417	$ 41,774	311 %

Research and development expenses increased by $41.8 million, or 311%, for the six months ended June 30, 2020 compared to the six months ended June 30, 2019. The increase was due to an increase in clinical trial costs of $32.7 million, an increase in manufacturing costs of $3.9 million, an increase in compensation and personnel-related expenses of $3.5 million, and an increase of $1.6 million in other costs, including regulatory, research and clinical consulting costs. The increases in clinical trial and manufacturing costs relate to new and ongoing studies of roflumilast cream, including three Phase 3 studies of roflumilast cream for plaque psoriasis and a Phase 1 pediatric study of roflumilast cream for atopic dermatitis. Additionally, in the current year, there were costs related to the initiation of the Phase 2b study of roflumilast foam for scalp psoriasis, a Phase 2 Proof of Concept clinical trial of roflumilast foam for seborrheic dermatitis, and the Phase 1/2b study of ARQ-252 in hand eczema. The increase in compensation and personnel-related expenses, which includes stock compensation, was primarily due to an increase in headcount.

General and Administrative Expenses

General and administrative expenses increased by $7.0 million, or 338%, for the six months ended June 30, 2020 compared to the six months ended June 30, 2019. The increase was primarily due to an increase in compensation and personnel-related expenses of $3.4 million, an increase in professional services of $2.1 million, and an increase in insurance costs of $1.2 million. The increase in compensation and personnel-related expenses, which includes stock compensation, was due to an increase in headcount. The increases in professional services and insurance costs were mainly due to the costs associated with being a public company.

Other Income, Net

Other income, net increased by $0.3 million, or 57%, for the six months ended June 30, 2020 compared to the six months ended June 30, 2019. The increase was primarily due to higher balances in our investment portfolio, partially offset by a decrease in their yield.

Liquidity, Capital Resources and Requirements

Sources of Liquidity

We have incurred operating losses since our inception and have an accumulated deficit as a result of ongoing efforts to develop our product candidates, including conducting preclinical and clinical trials and providing general and administrative support for these operations. As of June 30, 2020, we had cash, cash equivalents and marketable securities of $224.0 million, and an accumulated deficit of $129.7 million. We anticipate that operating losses and net cash used in operating activities will increase over the next several years as we further develop roflumilast cream, roflumilast foam, ARQ-252 and ARQ-255, move into later and more costly stages of product development, develop new product candidates, hire personnel and prepare for regulatory submissions and the commercialization of our product candidates.

We have historically financed our operations primarily through private placements of preferred stock as well as our IPO completed in January 2020, and will continue to be dependent upon equity, debt financing, collaborations or other forms of capital at least until we are able to generate positive cash flows from our operations.

Cash Flows

The following table sets forth our cash flows for the periods indicated:

	Six Months Ended June 30,	
	2020	2019
	(in thousands)	
Cash used in operating activities	$ (46,771)	$ (15,317)
Cash used in investing activities	(14,221)	(11,422)
Cash provided by financing activities	169,202	168
Net increase (decrease) in cash and cash equivalents	$ 108,210	$ (26,571)

Net Cash Used in Operating Activities

During the six months ended June 30, 2020, net cash used in operating activities was $46.8 million, which consisted of a net loss of $63.4 million, offset by a change in net operating assets and liabilities of $13.8 million and net non-cash charges of $2.8 million. The change in net operating assets and liabilities was due to an increase of $14.5 million in accounts payable and accrued liabilities due to our operating expense growth and timing of payments, partially offset by an increase of $0.6 million in prepaid expenses and other current assets. The net non-cash charges were primarily related to stock-based compensation expense of $3.0 million.

During the six months ended June 30, 2019, net cash used in operating activities was $15.3 million and consisted primarily of a net loss of $14.9 million and a change in net operating assets and liabilities of $0.4 million. The change in net operating assets and liabilities was primarily due to an increase of $1.6 million in prepaid

expenses and other assets, partially offset by an increase in accounts payable and accrued liabilities of $1.3 million due to our operating expense growth and timing of payments.

Net Cash Used in Investing Activities

During the six months ended June 30, 2020, net cash used in investing activities was $14.2 million, which was comprised primarily of purchases of marketable securities of $62.8 million, partially offset by proceeds from the maturities of marketable securities of $48.6 million.

During the six months ended June 30, 2019, net cash used in investing activities was $11.4 million, which was comprised primarily of purchases of marketable securities of $22.9 million, partially offset by proceeds from maturities of marketable securities of $11.7 million.

Net Cash Provided by Financing Activities

During the six months ended June 30, 2020, net cash provided by financing activities was $169.2 million, which was comprised primarily of the net cash proceeds received from the IPO of $168.6 million.

During the six months ended June 30, 2019, net cash provided by financing activities was $0.2 million, which was comprised of the cash proceeds received from the issuance of common stock upon exercise of stock options.

Funding Requirements

We have historically incurred significant losses and negative cash flows from operations since our inception and had an accumulated deficit of $129.7 million as of June 30, 2020. We had cash, cash equivalents and marketable securities of $224.0 million as of June 30, 2020. Based on our current planned operations, we expect that our current cash, cash equivalents and marketable securities will be sufficient to fund our operations through 2021. Our ability to continue as a going concern is dependent upon our ability to successfully secure sources of financing and ultimately achieve profitable operations.

We will need to raise substantial additional capital to fund our operations through the sale of our equity securities, incurring debt, entering into licensing or collaboration agreements with partners, grants or other sources of financing. There can be no assurance that sufficient funds will be available to us at all or on attractive terms when needed from these sources. If we are unable to obtain additional funding from these or other sources when needed it may be necessary to significantly reduce our current rate of spending through reductions in staff and delaying, scaling back, or stopping certain research and development programs. Insufficient liquidity may also require us to relinquish rights to product candidates at an earlier stage of development or on less favorable terms than we would otherwise choose.

We have based our projections of operating capital requirements on assumptions that may prove to be incorrect and we may use all our available capital resources sooner than we expect. Because of the numerous risks and uncertainties associated with research, development and commercialization of pharmaceutical products, we are unable to estimate the exact amount of our operating capital requirements. Our future funding requirements will depend on many factors, including, but not limited to:

- the scope, progress, results and costs of researching and developing our lead product candidates or any future product candidates, and conducting preclinical studies and clinical trials, in particular our currently ongoing Phase 3 studies (DERMIS-1, DERMIS-2, and DERMIS-OLE) of roflumilast cream in plaque psoriasis, our planned Phase 2b study of roflumilast cream in atopic dermatitis, our currently ongoing Phase 2 proof of concept study of roflumilast foam in seborrheic dermatitis, our currently ongoing Phase 2b study of roflumilast foam in scalp psoriasis, our currently ongoing Phase 1/2b study of ARQ-252 in hand eczema, our planned Phase 2a study of ARQ-252 in vitiligo and our formulation and preclinical efforts for ARQ-255 for alopecia areata.
- suspensions or delays in the enrollment or changes to the number of patients we decide to enroll in our ongoing clinical trials as a result of the COVID-19 pandemic;
- the timing of, and the costs involved in, obtaining regulatory approvals for our lead product candidate or our other product candidates;

- the number and characteristics of any additional product candidates we develop or acquire;
- the cost of manufacturing our lead product candidates or any future product candidates and any products we successfully commercialize, including costs associated with building out our supply chain;
- the cost of commercialization activities if our lead product candidates or any future product candidates are approved for sale, including marketing, sales and distribution costs;
- the cost of building a sales force in anticipation of product commercialization;
- our ability to establish and maintain strategic collaborations, licensing or other arrangements and the financial terms of any such agreements that we may enter into;
- the costs related to milestone payments to AstraZeneca or Hengrui, upon the achievement of predetermined milestones;
- any product liability or other lawsuits related to our products;
- 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 patent claims, and the outcome of this and any other future patent litigation we may be involved in; and
- the timing, receipt and amount of sales of any future approved products, if any.

Contractual Obligations and Contingent Liabilities

The following summarizes our significant contractual obligations as of June 30, 2020:

	Total	Less than 1 Year	1-3 Years	3-5 Years	More than 5 Years
			(in thousands)		
Operating leases	$ 6,753	$ 81	$ 1,457	$ 1,994	$ 3,221
Total obligations	$ 6,753	$ 81	$ 1,457	$ 1,994	$ 3,221

In April 2020, we amended our lease agreement for our facility in Westlake Village, California to relocate to a new expanded space including 22,643 square feet. The lease payments begin at the earlier of us occupying the space or 15 days from the completion of tenant improvements and terminate 91 months thereafter, with a renewal option term of 5 years. We will have a one-time option to cancel the lease after month 67.

The lease is subject to fixed rate escalation increases with an initial base rent of $76,000 per month and includes rent free periods aggregating approximately 1 year. The amended lease agreement provides for a tenant improvement allowance up to $1.25 million. It also requires that we deliver a letter of credit to the landlord of $1.5 million upon occupying the space, which is allowed to be reduced throughout the lease period as rent obligations are met.

Indemnification

In the normal course of business, we enter into contracts and agreements that contain a variety of representations and warranties and provide for general indemnifications. Our exposure under these agreements is unknown because it involves claims that may be made against us in the future, but have not yet been made. To date, we have not paid any claims or been required to defend any action related to our indemnification obligations. However, we may record charges in the future as a result of these indemnification obligations.

In accordance with our certificate of incorporation and bylaws, we have indemnification obligations to our officers and directors for specified events or occurrences, subject to some limits, while they are serving at our request in such capacities. There have been no claims to date, and we have director and officer insurance that may enable us to recover a portion of any amounts paid for future potential claims.

Off-Balance Sheet Arrangements

We did not have during the periods presented, and we do not currently have, any off-balance sheet arrangements, as defined under U.S. Securities and Exchange Commission (SEC) rules.

Critical Accounting Policies and Use of Estimates

The preparation of our condensed financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and the notes to the financial statements. Some of those judgments can be subjective and complex, and therefore, actual results could differ materially from those estimates under different assumptions or conditions. A summary of our critical accounting policies is presented in Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations, of our Annual Report on Form 10-K for the year ended December 31, 2019. There were no material changes to our critical accounting policies during the six months ended June 30, 2020.

Recent Accounting Pronouncements

See Note 2 to our unaudited condensed financial statements.

Emerging Growth Company Status

We are an emerging growth company, as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards issued subsequent to the enactment of the JOBS Act until such time as those standards apply to private companies. We have elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date that we are (i) no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. As a result, these financial statements may not be comparable to companies that comply with the new or revised accounting pronouncements as of public company effective dates. We early adopted ASU 2016-01, *Financial Instruments—Overall (Topic 825)—Recognition and Measurement of Financial Assets and Financial Liabilities*, ASU 2016-09, *Compensation—Stock Compensation (Topic 718)—Improvements to Employee Share Based Payment Accounting*, ASU No. 2018-07, *Compensation-Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting*, ASU No. 2016-02—*Leases,* ASU No. 2016-13, ASU No. 2018-13, and ASU No. 2019-12, as the JOBS Act does not preclude an emerging growth company from early adopting a new or revised accounting standard earlier than the time such standard applies to private companies. We expect to use the extended transition period for any other new or revised accounting standards during the period in which we remain an emerging growth company.

We will remain an emerging growth company until the last day of our fiscal year following the fifth anniversary of the completion of our IPO. However, if certain events occur prior to the end of such five-year period, including if we become a "large accelerated filer," our annual gross revenues exceed $1.07 billion or we issue more than $1.0 billion of non-convertible debt in any three-year period, we will cease to be an emerging growth company prior to the end of such five-year period.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to market risks in the ordinary course of our business. These risks primarily include interest rate sensitivities. As of June 30, 2020, we had cash and cash equivalents of $171.5 million and marketable securities of $52.4 million, which consist of bank deposits, money market funds and commercial paper. The primary objective of our investment activities is to preserve capital to fund our operations. We also seek to maximize income from our investments without assuming significant risk. Because our investments are primarily short-term in duration, we believe that our exposure to interest rate risk is not significant, and a 1% movement in market interest rates would not have a significant impact on the total value of our portfolio. We had no debt outstanding as of June 30, 2020.

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 June 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 June 30, 2020, our CEO and CFO have concluded that, as of June 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 June 30, 2020 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. LEGAL PROCEEDINGS

We may from time to time be involved in various legal proceedings of a character normally incident to the ordinary course of our business. We are not currently a party to any material litigation or other material legal proceedings.

Item 1A. RISK FACTORS

This Quarterly Report on Form 10-Q contains forward-looking information based on our current expectations. Because our business is subject to many risks and our actual results may differ materially from any forward-looking statements made by or on behalf of us, this section includes a discussion of important factors that could affect our business, operating results, financial condition and the trading price of our common stock. This discussion should be read in conjunction with the other information in this Quarterly Report on Form 10-Q, including our unaudited condensed financial statements and the related notes and "Management's Discussion and Analysis of Financial Condition and Results of Operations, and our Annual Report on Form 10-K for the year ended December 31, 2019. The occurrence of any of the events or developments described below could have a material adverse effect on our business, results of operations, financial condition, prospects and stock price. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also impair our business operations.

Risks Related to Our Limited Operating History, Financial Condition and Capital Requirements

We are a late-stage biopharmaceutical company with a limited operating history and no products approved for commercial sale, and we have incurred significant losses since our inception. We anticipate that we will continue to incur losses for the foreseeable future, which, together with our limited operating history, makes it difficult to assess our future viability.

We are a late-stage biopharmaceutical company with a limited operating history. Biopharmaceutical product development is a highly speculative undertaking and involves a substantial degree of risk. We have no products approved for commercial sale and have not generated any revenue from product sales and have incurred losses in

each year since our inception in June 2016. We have a limited operating history upon which you can evaluate our business and prospects, and have not yet demonstrated an ability to successfully overcome many of the risks and uncertainties frequently encountered by companies in new and rapidly evolving fields. Our operations to date have been limited to organizing and staffing our company, business planning, raising capital, identifying potential product candidates, establishing licensing arrangements, undertaking various research and preclinical studies and conducting clinical trials for our product candidates.

We have never generated any revenue from product sales and have incurred losses in each year since our inception in June 2016. We have not yet demonstrated our ability to successfully complete later-stage clinical trials, obtain regulatory approvals, manufacture a drug on a commercial scale, or arrange for a third party to do so on our behalf, or conduct sales and marketing activities necessary for successful commercialization.

Our net loss for the three and six months ended June 30, 2020 was approximately $35.4 million and $63.4 million, respectively. As of June 30, 2020, we had an accumulated deficit of $129.7 million. We expect to continue to incur losses for the foreseeable future, and we anticipate these losses will increase as we continue to develop our product candidates, conduct clinical trials and pursue research and development activities. We may never achieve profitability and, even if we do, we may not be able to sustain profitability in subsequent periods. We will continue to incur significant research and development and other expenses related to our ongoing operations and the development of our product candidates. Our prior losses, combined with expected future losses, have had and will continue to have an adverse effect on our stockholders' equity and working capital.

We may encounter unforeseen expenses, difficulties, complications, delays and other known or unknown factors in achieving our business objectives. We will need to transition at some point from a company with a development focus to a company capable of supporting commercial activities. We may not be successful in such a transition.

We will require substantial additional financing to achieve our goals, 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 product development, other operations or commercialization efforts.

Since our inception, we have invested substantially all of our efforts and financial resources in research and development activities, and we expect to continue to expend substantial resources for the foreseeable future in connection with the development of our current product candidates, roflumilast cream, roflumilast foam, ARQ-252 and ARQ-255, the development or acquisition of additional product candidates and the maintenance and expansion of our business operations and capabilities. These expenditures will include costs associated with conducting preclinical studies and clinical trials, obtaining regulatory approvals, and securing manufacturing and supply of product candidates, and marketing and selling any products approved for sale. These expenditures may also include costs associated with in-licensing dermatology assets consistent with our core strategy. In addition, other unanticipated costs may arise. Because the outcome of any preclinical study or clinical trial is highly uncertain, we cannot reasonably estimate the actual amounts necessary to successfully complete the development and commercialization of our lead product candidates and any future product candidates.

As of June 30, 2020, we had capital resources consisting of cash, cash equivalents and marketable securities of $224.0 million. Based on our planned operations, we believe that our existing cash, cash equivalents and marketable securities will be sufficient to fund our operations through 2021. However, our operating plans may change as a result of many factors currently unknown to us, and we may need to seek additional funds sooner than planned, through public or private equity or debt financings or other sources, such as strategic collaborations. Such financing may result in dilution to stockholders, imposition of burdensome debt covenants and repayment obligations, or other restrictions that may affect our business. In addition, we may seek additional capital due to favorable market conditions or strategic considerations even if we believe we have sufficient funds for our current or future operating plans.

Our future capital requirements depend on many factors, including, but not limited to:

- the scope, progress, results and costs of researching and developing our lead product candidates or any future product candidates, and conducting preclinical studies and clinical trials, in particular our currently ongoing Phase 3 clinical trials of roflumilast cream in plaque psoriasis, our planned Phase 2b study of roflumilast cream in atopic dermatitis, our currently ongoing Phase 2 proof of concept study of roflumilast foam in seborrheic dermatitis, our currently ongoing Phase 2b study of roflumilast foam in scalp psoriasis,

our currently ongoing Phase 1/2b study of ARQ-252 in hand eczema, our planned Phase 2a study of ARQ-252 in vitiligo and our formulation and preclinical efforts for ARQ-255 in alopecia areata;

- suspensions or delays in the enrollment, issues with data collection, or changes to the number of patients we decide to enroll in our ongoing clinical trials as a result of the COVID-19 pandemic;
- the number and scope of clinical programs we decide to pursue;
- the cost, timing and outcome of regulatory review of our product candidates;
- the cost of manufacturing our product candidates and any products we commercialize, including costs associated with building out our supply chain;
- the cost of commercialization activities if any of our product candidates are approved for sale, including marketing, sales and distribution costs, and any discounts or rebates to channel to obtain access
- the cost of building a sales force in anticipation of product commercialization;
- our ability to establish and maintain strategic collaborations, licensing or other arrangements and the financial terms of any such agreements that we may enter into;
- the timing and amount of milestone payments due to AstraZeneca, Jiangsu Hengrui Medicine Co., Ltd., or Hengrui, or any future collaboration or licensing partners upon the achievement of negotiated milestones;
- the expenses needed to attract and retain skilled personnel;
- the costs associated with being a public company; and
- the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing our intellectual property portfolio; and
- the timing, receipt and amount of sales of any future approved products, if any.

Adequate additional funds may not be available when we need them, on terms that are acceptable to us, or at all. If adequate funds are not available to us on a timely basis or on attractive terms, we may be required to reduce our workforce, delay, limit, reduce or terminate our research and development activities, preclinical studies, clinical trials or other development activities and future commercialization efforts, or grant rights to develop and market product candidates, such as roflumilast cream, that we would otherwise develop and market ourselves.

Our operating results may fluctuate significantly, which makes our future operating results difficult to predict and could cause our future operating results to fall below expectations.

Our operations to date have been primarily limited to researching and developing our product candidates and undertaking preclinical studies and clinical trials of our product candidates. We have not yet obtained regulatory approvals for any of our product candidates. Furthermore, our operating results may fluctuate due to a variety of factors, many of which are outside of our control and may be difficult to predict, including the following:

- delays in the commencement, enrollment and the timing of clinical testing for our product candidates, especially in light of the COVID-19 pandemic;
- the timing and success or failure of clinical trials for our product candidates or competing product candidates, or any other change in the competitive landscape of our industry, including consolidation among our competitors or partners;
- any delays in regulatory review and approval of product candidates in clinical development, or failure to obtain such approvals;
- the timing and cost of, and level of investment in, research and development activities relating to our product candidates, which may change from time to time;
- the cost of manufacturing our product candidates, which may vary depending on U.S. Food and Drug Administration, or FDA, guidelines and requirements, and the quantity of production;
- our ability to obtain additional funding to develop our product candidates;
- expenditures that we will or may incur to acquire or develop additional product candidates and technologies, which may include obligations to make significant upfront and milestone payments;

- the level of demand for our product candidates, should they receive approval, which may vary significantly;
- potential side effects of our product candidates that could delay or prevent commercialization or cause an approved drug to be taken off the market;
- the ability of patients or healthcare providers to obtain coverage of or sufficient reimbursement for our product candidates, if approved;
- our dependency on Contract Research Organizations (CROs) and third-party manufacturers to supply or manufacture our product candidates;
- our ability to establish an effective sales, marketing and distribution infrastructure in a timely manner;
- market acceptance of our product candidates, if approved, and our ability to forecast demand for those product candidates;
- our ability to receive approval and commercialize our product candidates both within and outside of the United States;
- our ability to establish and maintain collaborations, licensing or other arrangements with respect to our product candidates;
- our ability to maintain and enforce our intellectual property position;
- costs related to and outcomes of potential litigation or other disputes in respect of our product candidates and our business;
- our ability to adequately support future growth;
- our ability to attract and retain key personnel to manage our business effectively;
- potential liabilities associated with hazardous materials;
- our ability to maintain adequate insurance policies; and
- future accounting pronouncements or changes in our accounting policies.

In addition, we measure compensation cost for stock-based awards made to employees at the grant date of the award, based on the fair value of the award as determined by our board of directors, and recognize the cost as an expense over the employee's requisite service period. As the variables that we use as a basis for valuing these awards change over time, including our underlying stock price and stock price volatility, the magnitude of the expense that we must recognize may vary significantly.

Our estimated market opportunities for our product candidates are subject to numerous uncertainties and may prove to be inaccurate. If we have overestimated the size of our market opportunities, our future growth may be limited.

Our estimated addressable markets and market opportunities for our product candidates are based on a variety of inputs, including data published by third parties, our own market insights and internal market intelligence, and internally generated data and assumptions. We have not independently verified any third-party information and cannot assure you of its accuracy or completeness. Market opportunity estimates, whether obtained or derived from third-party sources or developed internally, are subject to significant uncertainty and are based on assumptions and estimates that may not prove to be accurate. While we believe our market opportunity estimates are reasonable, such information is inherently imprecise. In addition, our assumptions and estimates of market opportunities are necessarily subject to a high degree of uncertainty and risk due to a variety of factors, including but not limited to those described in this Quarterly Report on Form 10-Q. If this third-party or internally generated data prove to be inaccurate or we make errors in our assumptions based on that data, our actual market may be more limited than our estimates. In addition, these inaccuracies or errors may cause us to misallocate capital and other critical business resources, which could harm our business. The estimates of our market opportunities included in this Quarterly Report on Form 10-Q should not be taken as indicative of our ability to grow our business.

Risks Related to Development and Commercialization

Our business is dependent on the development, regulatory approval and commercialization of our current product candidates.

We currently have no products that are approved for commercial sale. Our current portfolio includes our lead product candidate roflumilast cream, a potent PDE4 inhibitor topical cream for the treatment of plaque psoriasis and atopic dermatitis, and our additional product candidates roflumilast foam, a topical foam formulation of roflumilast cream for the treatment of scalp psoriasis and seborrheic dermatitis, ARQ-252, a potent and highly selective topical JAK1 inhibitor for the treatment of chronic hand eczema, and ARQ-255, a potential topical treatment for alopecia areata. We currently do not have a drug discovery or research and development effort to discover new product candidates, and we have no intention to develop one. The success of our business, including our ability to finance our company and generate any revenue in the future, will primarily depend on the successful development, regulatory approval and commercialization of these current product candidates. We expect to conduct most of our clinical trials in the United States and Canada, with current limited plans for clinical trials in Australia and the European Union. We currently anticipate seeking regulatory approvals in the United States and Canada, but may in the future be subject to additional foreign regulatory authorities and may out-license our product candidates or approved products, if any, in additional foreign markets. In the future, we may also become dependent on other product candidates that we may acquire or in-license. The clinical and commercial success of our product candidates will depend on a number of factors, including the following:

- the ability to raise any additional required capital on acceptable terms, or at all;
- timely completion of our preclinical studies and clinical trials, which may be significantly slower or cost more than we currently anticipate, particularly as a result of the impact of the COVID-19 pandemic, and will depend substantially upon the performance of third-party contractors;
- whether we are required by the FDA or similar foreign regulatory authorities to conduct additional clinical trials or other studies beyond those planned to support the approval and commercialization of our product candidates or any future product candidates;
- acceptance of our proposed indications and primary and secondary endpoint assessments relating to the proposed indications of our product candidates by the FDA and similar foreign regulatory authorities;
- the prevalence, duration and severity of potential side effects or other safety issues experienced with our product candidates or future approved products, if any;
- the timely receipt of necessary marketing approvals from the FDA and similar foreign regulatory authorities;
- achieving and maintaining, and, where applicable, ensuring that our third-party contractors achieve and maintain, compliance with our contractual obligations and with all regulatory requirements applicable to our lead product candidates or any future product candidates or approved products, if any;
- the willingness of physicians and patients to utilize or adopt our product candidates;
- the ability of third parties upon which we rely to manufacture clinical trial and commercial supplies of our product candidates or any future product candidates to remain in good standing with relevant regulatory authorities and to develop, validate and maintain commercially viable manufacturing processes that are compliant with current good manufacturing practices, or cGMP;
- our ability to successfully develop a commercial strategy and thereafter commercialize our product candidates or any future product candidates in the United States and internationally, if approved for marketing, reimbursement, sale and distribution in such countries and territories, whether alone or in collaboration with others;
- acceptance by physicians, payors and patients of the benefits, safety and efficacy of our product candidates or any future product candidates, if approved, including relative to alternative and competing treatments;
- patient demand for our product candidates, if approved;
- our ability to establish and enforce intellectual property rights in and to our product candidates or any future product candidates; and
- our ability to avoid third-party patent interference, intellectual property challenges or intellectual property infringement claims.

Furthermore, because each of our product candidates targets one or more indications in the medical dermatology field, if any of our product candidates encounter safety or efficacy problems, developmental delays, regulatory issues, supply issues, or other problems, our development plans for the affected product candidate and some or all of our other product candidates could be significantly harmed, which would harm our business. Further, competitors who are developing products in the dermatology field or that target the same indications as us with products that have a similar mechanism of action may experience problems with their products that could indicate or result in class-wide problems or additional requirements that would potentially harm our business.

The factors outlined above, many of which are beyond our control, could cause us to experience significant delays or an inability to obtain regulatory approvals or commercialize our product candidates. Accordingly, we cannot provide assurances that we will be able to generate sufficient revenue through the sale of our product candidates or any future product candidates to continue our business.

Clinical drug development involves a lengthy and expensive process, with an uncertain outcome. We may incur additional costs or experience delays in completing, or ultimately be unable to complete, the development and commercialization of our product candidates.

The risk of failure for our product candidates is high. It is impossible to predict when or if any of our product candidates will prove effective or safe in humans or will receive regulatory approval. Before obtaining marketing approval from regulatory authorities for the sale of any product candidate, we must complete preclinical development and then conduct extensive clinical trials to demonstrate the safety and efficacy of our product candidates in humans. Clinical testing is expensive, difficult to design and implement, can take many years to complete and is inherently uncertain as to outcome. A failure of one or more clinical trials can occur at any stage of testing. The outcome of preclinical testing and 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. For example, our Phase 2 proof of concept study in atopic dermatitis had a limited number of patients and it did not reach statistical significance for the primary endpoint or the secondary endpoint of IGA Success, which we expect will be the primary endpoint in any registrational trial, but did show significance in certain secondary efficacy endpoints. While we believe this is evidence of the ability of roflumilast cream to treat the signs and symptoms of atopic dermatitis, these results may not be replicated or improved in later studies. 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 drugs. For example, we are developing roflumilast foam, including ongoing Phase 2 clinical trials in patients with seborrheic dermatitis and in patients with scalp psoriasis, based on our clinical experience with roflumilast cream in psoriasis. Despite our observations of roflumilast cream in a similar dermatological indication, roflumilast foam may not demonstrate comparable results in seborrheic dermatitis or scalp psoriasis. In addition, given its different formulation there is a risk that we selected an incorrect dose for roflumilast foam, as the clinical effect of roflumilast foam may differ from roflumilast cream at a similar dosing level or we may observe unexpected side effects not previously observed with roflumilast cream.

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

- clinical site closures, delays to patient enrollment, subjects discontinuing treatment or follow up visits, issues with data collection, or changes to trial protocols as a result of the COVID-19 pandemic;
- regulators or institutional review boards may not authorize us or our investigators to commence a clinical trial or conduct a clinical trial at a prospective trial site;
- we may experience delays in reaching, or fail to reach, agreement on acceptable clinical trial contracts or clinical trial protocols with prospective trial sites or prospective CROs, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and trial sites;
- clinical trials of our product candidates may produce negative or inconclusive results, including failure to demonstrate statistical significance, and we may decide, or regulators may require us, to conduct additional clinical trials or abandon drug development programs;
- the number of patients required for clinical trials of our product candidates may be larger than we anticipate, enrollment in these clinical trials may be slower than we anticipate or participants may drop out of these clinical trials or fail to return for post-treatment follow-up at a higher rate than we anticipate;

- 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 the trials;
- our third-party contractors may fail to comply with regulatory requirements or meet their contractual obligations to us in a timely manner, or at all;
- regulators or institutional review boards may require that we or our investigators suspend or terminate clinical development for various reasons, including noncompliance with regulatory requirements 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; and
- 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.

We could also encounter delays if a clinical trial is suspended or terminated by us, by the institutional review boards of the institutions in which such trials are being conducted, by the data safety monitoring board for such trial or by the FDA or other regulatory authorities. Such authorities may impose such a suspension or termination due to a number of factors, including failure to conduct the clinical trial in accordance with regulatory requirements or our clinical 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 side effects, failure to demonstrate a benefit from using a drug, changes in governmental regulations or administrative actions or lack of adequate funding to continue the clinical trial.

If we experience delays in the completion of, or termination of, any clinical trial of our product candidates, the commercial prospects of our product candidates will 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 harm our business, financial condition and prospects significantly.

We may be unable to obtain regulatory approval for our product candidates under applicable regulatory requirements. The denial or delay of any such approval would delay commercialization of our product candidates and adversely impact our potential to generate revenue, our business and our results of operations.

To gain approval to market our product candidates, we must provide the FDA and foreign regulatory authorities with preclinical and clinical data that adequately demonstrate the safety and efficacy of the product for the intended indication applied for in the applicable regulatory filing. Product development is long, expensive and uncertain processes, and delay or failure can occur at any stage of any of our preclinical and clinical development programs. A number of companies in the biotechnology and pharmaceutical industries have suffered significant setbacks in clinical trials, even after promising results in earlier preclinical or clinical studies. These setbacks have been caused by, among other things, preclinical findings made while clinical studies were underway and safety or efficacy observations made in clinical studies, including previously unreported adverse events. Success in preclinical testing and early clinical trials does not ensure that later clinical trials will be successful, and the results of clinical trials by other parties may not be indicative of the results in trials we may conduct.

Our lead product candidate, roflumilast cream, and roflumilast foam, its foam formulation, are currently in clinical development. Our product candidate ARQ-252 has just entered clinical development for chronic hand eczema and will do so in the second half of 2020 for vitiligo. ARQ-255 is in formulation and preclinical development for the potential treatment of alopecia areata. We currently have no products approved for sale, and we may never obtain regulatory approval to commercialize our lead product candidates. The research, testing, manufacturing, labeling, approval, sale, marketing and distribution of drug products are subject to extensive regulation by the FDA and other regulatory authorities in the United States and other countries, and such regulations differ from country to country. We are not permitted to market our product candidates in the United States or in any foreign countries until they receive the requisite approval from the applicable regulatory authorities of such jurisdictions, including pricing approval in the European Union.

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

- our inability to demonstrate to the satisfaction of the FDA or the applicable foreign regulatory authority that any of our product candidates is safe and effective for the requested indication;
- the FDA or other relevant foreign regulatory authorities may disagree with the number, design, size, conduct or implementation of our clinical trials, including the design of our Phase 3 clinical trials of roflumilast cream for the treatment of plaque psoriasis;
- the FDA or other relevant foreign regulatory authorities may not find the data from preclinical studies or clinical trials sufficient to demonstrate that the clinical and other benefits of these products candidates outweigh their safety risks or that there is an acceptable risk-benefit profile;
- the results of our clinical trials may not meet the level of statistical significance or clinical meaningfulness required by the FDA or other relevant foreign regulatory authorities for marketing approval;
- the FDA's or the applicable foreign regulatory authority's requirement for additional preclinical studies or clinical trials which would increase our costs and prolong our development timelines;
- the FDA or other relevant foreign regulatory authorities may disagree with our interpretation of data or significance of results from the preclinical studies and clinical trials of any product candidate, or may require that we conduct additional studies;
- the FDA or other relevant foreign regulatory authorities may not accept data generated from our clinical trial sites;
- the CROs that we retain to conduct clinical trials may take actions outside of our control, or otherwise commit errors or breaches of protocols, that adversely impact our clinical trials and ability to obtain market approvals;
- if our new drug application (NDA) or other foreign application is reviewed by an advisory committee, the FDA or other relevant foreign regulatory authority, as the case may be, may have difficulties scheduling an advisory committee meeting in a timely manner or the advisory committee may recommend against approval of our application or may recommend that the FDA or other relevant foreign regulatory authority, as the case may be, require, as a condition of approval, additional preclinical studies or clinical trials, limitations on approved labeling or distribution and use restrictions;
- the FDA or other relevant foreign regulatory authorities may require development of a risk evaluation and mitigation strategy, or REMS, or its equivalent, as a condition of approval;
- the FDA or other relevant foreign regulatory authorities may require additional post-marketing studies and/or a patient registry, which would be costly;
- the FDA or other relevant foreign regulatory authorities may find the chemistry, manufacturing and controls data insufficient to support the quality of our product candidates;
- the FDA or other relevant foreign regulatory authorities may identify deficiencies in the manufacturing processes or facilities of our third-party manufacturers; or
- the FDA or other relevant foreign regulatory authorities may change their approval policies or adopt new regulations.
- the FDA's or the applicable foreign regulatory authority's non-approval of the formulation, dosing, labeling or specifications;
- the FDA's or the applicable foreign regulatory authority's failure to approve the manufacturing processes of third-party manufacturers upon which we rely or the failure of the facilities of our third-party manufacturers to maintain a compliance status acceptable to the FDA or the applicable foreign regulatory authority; or
- the potential for approval policies or regulations of the FDA or the applicable foreign regulatory authorities to significantly change in a manner rendering our clinical data insufficient for approval.

Of the large number of biopharmaceutical products in development, only a small percentage successfully complete the FDA or other regulatory approval processes and are commercialized.

Even if we eventually complete clinical testing and receive approval from the FDA or applicable foreign agencies for any of our product candidates, the FDA or the applicable foreign regulatory authority may grant approval contingent on the performance of costly additional clinical trials which may be required after approval. The

FDA or the applicable foreign regulatory authority also may approve our lead product candidates for a more limited indication or a narrower patient population than we originally requested, and the FDA, or applicable foreign regulatory authority, may not approve our product candidates with the labeling that we believe is necessary or desirable, or may approve them with labeling that includes warnings or precautions or limitations of use that may not be desirable, for the successful commercialization of such product candidates. Any delay in obtaining, or inability to obtain, applicable regulatory approval would delay or prevent commercialization of our product candidates and would materially adversely impact our business and prospects.

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

From time to time, we may publicly disclose interim, topline, or preliminary data from our clinical trials, which is based on a preliminary analysis of then-available data, and the results and related findings and conclusions are subject to change following a full analyses of all data related to the particular trial. We also make assumptions, estimations, calculations and conclusions as part of our analyses of data, and we may not have received or had the opportunity to fully and carefully evaluate all data. As a result, the interim, topline, or preliminary results that we report may differ from future results of the same trials, or different conclusions or considerations may qualify such results, once additional data have been received and fully evaluated. Topline data also remain subject to audit and verification procedures that may result in the final data being materially different from the preliminary data we previously published. As a result, topline data should be viewed with caution until the final data are available. We may also disclose interim data from our clinical trials. Interim data from clinical trials that we may complete are subject to the risk that one or more of the clinical outcomes may materially change as patient enrollment continues and more patient data become available. Adverse differences between interim, topline, or preliminary data and final data could significantly harm our business prospects.

Further, others, including regulatory agencies, may not accept or agree with our assumptions, estimates, calculations, conclusions or analyses or may interpret or weigh the importance of data differently, which could impact the value of the particular program, the approvability or commercialization of the particular product candidate or product and our business in general. In addition, the information we choose to publicly disclose regarding a particular study or clinical trial is based on what is typically extensive information, and you or others may not agree with what we determine is the material or otherwise appropriate information to include in our disclosure, and any information we determine not to disclose may ultimately be deemed significant with respect to future decisions, conclusions, views, activities or otherwise regarding a particular drug, product candidate or our business. If the interim, topline, or preliminary data that we report differ from actual results, or if others, including regulatory authorities, disagree with the conclusions reached, our ability to obtain approval for and commercialize our product candidates, our business, operating results, prospects or financial condition may be harmed.

Certain of the endpoints in our planned clinical trials rely on a subjective assessment of the effect of the product candidate in the subject by either the physician or patient, and may prove difficult to meet in patients with more severe disease, which exposes us to a variety of risks for the successful completion of our clinical trials.

Certain of our primary and secondary endpoints in our clinical trials, including our currently ongoing Phase 3 clinical trials of roflumilast cream in plaque psoriasis, involve subjective assessments by physician and patients, which can increase the uncertainty of clinical trial outcomes. For example, one of the secondary endpoints requires patients to report pruritus (itching) as measured by the Worst Itch – Numeric Rating Scale and complete or deliver patient or caregiver reported outcomes over the course of our clinical trials. This and other assessments are inherently subjective, which can increase the variability of clinical results across clinical trials and create a significant degree of uncertainty in determining overall clinical benefit. Such assessments can be influenced by factors outside of our control, and can vary widely from day-to-day for a particular patient, and from patient-to-patient and site-to-site within a clinical trial. In addition, frequent reporting requirements may lead to rating fatigue and a loss of accuracy and reliability of the data resulting from our clinical trials. Further, the FDA or comparable foreign regulatory authority may not accept such patient or caregiver reported outcomes as sufficiently validated. Accordingly, these subjective assessments can complicate clinical trial design, adversely impact the ability of a study to show a statistically significant improvement and generally adversely impact a clinical development program by introducing additional uncertainties.

Patient reported outcome instruments, their use in our Phase 3 clinical trials of roflumilast cream and the inclusion of such data in the product labeling will depend on, but is not limited to, the FDA's review of the following:

- the relevance and importance of the concept(s) of interest to the target patient population;
- the strengths and limitations of the instrument within the given context of use;
- the design and conduct of the trials;
- the adequacy of the submitted data, for example, rigorous data collection and methods to handle missing data; and
- the magnitude of the statistically significant treatment effect should be meaningful to patients.

Further, different results may be achieved depending upon the characteristics of the population enrolled in our studies and which analysis population is used to analyze results. For example, the primary endpoint in our Phase 3 clinical trials of roflumilast cream in plaque psoriasis is based on the percentage of patients achieving a score of "clear" or "almost clear" plus at least a 2-grade improvement from baseline on the 5 point Investigator's Global Assessment (or IGA) scale, referred to as "IGA Success". Success in our Phase 3 clinical trials, or other clinical trials with these or similar endpoints, requires the enrollment of patients with conditions that are severe enough to facilitate a two-grade improvement in the IGA scale, but not so severe that they cannot achieve a "clear" or "almost clear" in IGA score in light of the severity of their disease. It is therefore possible that we enroll patients with conditions so severe that they do not or are unable to realize an IGA of 0 (clear) or 1 (almost clear) during the period covered by the clinical trial. As a result, there is no guarantee that our Phase 3 clinical trials will produce the same statistically significant results in "IGA Success", which will serve as the primary endpoint, as our Phase 2b clinical trial, and there can be no guarantee that the characteristics of the population enrolled in our Phase 3 clinical trials does not adversely impact the results reported for such trial, any of which could have an adverse effect on our ability to secure regulatory approval for our product candidates.

Enrollment and retention of subjects in clinical trials is expensive and time consuming and may result in additional costs and delays in our product development activities, or in the failure of such activities.

We may not be able to initiate or continue clinical trials for roflumilast cream or our other product candidates if we are unable to locate and enroll a sufficient number of eligible patients to participate in these trials as required by the FDA or similar regulatory authorities outside the United States. In addition, some of our competitors are currently conducting clinical trials for product candidates that treat the same indications as roflumilast cream, roflumilast foam, ARQ-252 and ARQ-255, and patients who are otherwise eligible for our clinical trials may instead enroll in clinical trials of our competitors' product candidates.

Patient enrollment is affected by other factors including:

- the severity of the disease under investigation;
- the selection of the patient population required for analysis of the trial's primary endpoints;
- the eligibility criteria for the study in question;
- the frequency and extent of clinical trial site visits and study assessments;
- the perceived risks and benefits of the product candidate under study;
- the efforts to facilitate timely enrollment in clinical trials;
- the patient referral practices of physicians;
- the ability to monitor patients adequately during and after treatment; and
- the proximity and availability of clinical trial sites for prospective patients.

Furthermore, any negative results that we may report in preclinical studies or clinical trials of our product candidates may make it difficult or impossible to recruit and retain subjects in other clinical trials of that same or any similar product candidate. Our inability to enroll a sufficient number of patients for our clinical trials would result in significant delays, could require us to abandon one or more clinical trials altogether and could delay or prevent our receipt of necessary regulatory approvals. Enrollment delays in our clinical trials may result in increased development costs for our product candidates, which would cause the value of our company to decline and impede our ability to obtain additional financing.

Serious adverse or unacceptable side effects may be identified during the development of our product candidates, which could prevent or delay regulatory approval and commercialization, increase our costs or necessitate the abandonment or limitation of the development of some of our product candidates.

As we continue our development of our product candidates and initiate additional preclinical studies or clinical trials of these or future product candidates, if any, serious adverse events, unacceptable levels of toxicity, undesirable side effects or unexpected characteristics may emerge, causing us to abandon these product candidates or limit their development to more narrow uses, lower potency levels or subpopulations in which the serious adverse events, unacceptable levels of toxicity, undesirable side effects or other characteristics are less prevalent, less severe or more acceptable from a risk/benefit perspective.

If our product candidates are associated with adverse effects in clinical trials or have characteristics that are unexpected, we may need to abandon their development, institute burdensome monitoring programs, or limit development to more narrow uses or lower or less frequent dosing in which the side effects or other characteristics are less prevalent, less severe or more acceptable from a risk-benefit perspective. The FDA or an institutional review board, or similar regulatory authorities outside the United States, may also require that we suspend, discontinue, or limit our clinical trials based on safety information. Such findings could further result in regulatory authorities failing to provide marketing authorization for our product candidates. Many product candidates that initially showed promise in early stage testing have later been found to cause side effects that prevented further development of the product candidate.

Additionally, if one or more of our product candidates receives marketing approval, and we or others identify undesirable side effects caused by such products, a number of potentially significant negative consequences could result, including:

- regulatory authorities may withdraw approvals of such product;
- regulatory authorities may require additional warnings on the labels;
- we may be required to create a medication guide outlining the risks of such side effects for distribution to patients;
- we may be required to implement a risk evaluation and mitigation strategy, or REMS;
- we may be required to conduct Phase 4 clinical trials as post-marketing requirements, or PMRs;
- we could be sued and held liable for harm caused to patients; and
- our reputation and physician or patient acceptance of our products 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.

As a company, we have never completed a Phase 3 program or obtained marketing approval for any product candidate and we may be unable to successfully do so in a timely manner, if at all, for any of our product candidates.

Conducting Phase 3 clinical trials and preparing, and obtaining marketing approval for, a product candidate is a complicated process. Although members of our management team have participated in pivotal trials and obtained marketing approvals for product candidates in the past while employed at other companies, we as a company have not done so. As a result, these activities may require more time and cost more than we anticipate, and we may be unable to successfully complete them for any of our product candidates.

To date, we have completed two Phase 2 studies in plaque psoriasis and a Phase 2 proof of concept study in atopic dermatitis with roflumilast cream, and have initiated a Phase 3 program in plaque psoriasis, which includes three studies comprised of two pivotal studies (DERMIS-1 and DERMIS-2) and an open label extension. We also anticipate commencing more advanced clinical trials of roflumilast cream in the treatment of atopic dermatitis. Failure to successfully complete, or delays in, our pivotal trials or related regulatory submissions would prevent us from or delay us in obtaining regulatory approval for our product candidates. In addition, it is possible that the FDA may refuse to accept for substantive review any NDAs that we submit for our product candidates or may conclude after review of our applications that they are insufficient to obtain marketing approval of our product candidates. If the FDA does not accept our applications or issue marketing authorizations for our product candidates, it may require that we conduct additional clinical, preclinical or manufacturing validation studies and submit that data

before it will reconsider our applications. Depending on the extent of these or any other FDA-required studies, approval of any NDA for any other applications that we submit may be delayed by several years, or may require us to expend more resources than we have available. It is also possible that additional studies, if performed and completed, may not be considered sufficient by the FDA to approve our NDAs. Additionally, similar risks could apply to receipt of marketing authorizations by comparable regulatory authorities in foreign jurisdictions.

Any delay in obtaining, or an inability to obtain, marketing approvals would prevent us from commercializing our product candidates, generating revenues and achieving and sustaining profitability. If any of these outcomes occur, we may be forced to abandon our development efforts for our product candidates, which could significantly harm our business.

Even if our lead product candidate or our other product candidates receive marketing approval, they may fail to achieve market acceptance by physicians, patients, third-party payors or others in the medical community necessary for commercial success.

Even if our lead product candidate or our other product candidates receive marketing approval, they may nonetheless fail to gain sufficient market acceptance by physicians, patients, third-party payors and others in the medical community. If our product candidates do not achieve an adequate level of acceptance, we may not generate adequate product revenue or become profitable. The degree of market acceptance of a product candidate, if approved for commercial sale, will depend on a number of factors, including but not limited to:

- the safety, efficacy, risk-benefit profile and potential advantages compared to alternative or existing treatments, such as steroids topical treatments, oral treatments, and biologic injections for the treatment of psoriasis, which physicians may perceive to be adequately effective for some or all patients;
- side effects that may be attributable to our product candidates and the difficulty of or costs associated with resolving such side effects;
- limitations or warnings contained in the labeling approved for our product candidates by FDA or other applicable foreign regulatory authorities;
- any restrictions on the use of our products, and the prevalence and severity of any side effects;
- the content of the approved product label;
- the effectiveness of sales and marketing efforts;
- the cost of treatment in relation to alternative treatments, including any similar generic treatments and over-the-counter, or OTC treatments;
- our ability to offer our products for sale at competitive prices;
- the convenience and ease of administration compared to alternative treatments;
- the willingness of the target patient population to try new therapies and of physicians to prescribe these therapies over existing therapies;
- the strength of marketing and distribution support;
- the availability of third-party coverage and adequate reimbursement at any given price level of each of our product candidates;
- utilization controls imposed by third-party payors, such as prior authorizations and step edits; and
- any restrictions on the use of any of our product candidates.

We cannot assure you that our current or future product candidates, if approved, will achieve market acceptance among physicians, patients, third-party payors or others in the medical community necessary for commercial success. Any failure by our product candidates that obtain regulatory approval to achieve market acceptance or commercial success would harm our results of operations.

We may choose not to continue developing or commercializing any of our product candidates at any time during development or after approval, which would reduce or eliminate our potential return on investment for those product candidates.

At any time, we may decide to discontinue the development or commercialization of any of our products or product candidates for a variety of reasons, including the appearance of new technologies that render our product obsolete, competition from a competing product or changes in or inability to comply with applicable regulatory requirements. If we terminate a program in which we have invested significant resources, we will not receive any return on our investment and we will have missed the opportunity to allocate those resources to potentially more productive uses.

If we are unable to achieve and maintain coverage and adequate levels of reimbursement for any of our product candidates for which we receive regulatory approval, or any future products we may seek to commercialize, their commercial success may be severely hindered.

As to any of our product candidates that become available by prescription only, our success will depend on the availability of coverage and adequate reimbursement for our product from third-party payors. Patients who are prescribed medicine for the treatment of their conditions generally rely on third-party payors to reimburse all or part of the costs associated with their prescription drugs. The availability of coverage and adequate reimbursement from governmental healthcare programs, such as Medicare and Medicaid, and private third-party payors is critical to new product acceptance. Coverage decisions may depend upon clinical and economic standards that disfavor new drug products when more established or lower cost therapeutic alternatives are already available or subsequently become available. If any of our product candidates fail to demonstrate attractive efficacy profiles, they may not qualify for coverage and reimbursement. Even if 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 prescription-only products unless coverage is provided and reimbursement is adequate to cover a significant portion of the cost of our products.

In addition, the market for certain of our product candidates will depend significantly on access to third-party payors' drug formularies, or lists of medications for which third-party payors provide coverage and reimbursement. The industry competition to be included in such formularies often leads to downward pricing pressures on pharmaceutical companies.

Further, third-party payors, whether foreign or domestic, or governmental or commercial, are developing increasingly sophisticated methods of controlling healthcare costs. In addition, in the United States, although private third-party payors tend to follow Medicare, no uniform policy of coverage and reimbursement for drug products exists among third-party payors. Therefore, coverage and reimbursement for drug 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 product candidates to each payor separately, with no assurance that coverage and adequate reimbursement will be obtained.

Further, we believe that future coverage and reimbursement will likely be subject to increased restrictions in both the United States and in international markets. Third-party coverage and reimbursement for any of our product candidates for which we may receive regulatory approval may not be available or adequate in either the United States or international markets, which could harm our business, financial condition, operating results and prospects.

We currently have limited sales, marketing or distribution capabilities and have no experience as a company in commercializing products.

Our current sales and marketing organization consists of four employees, including our Chief Commercial Officer. To achieve commercial success for any product for which we obtain marketing approval, we will need to build a significantly more robust sales and marketing organization. We do not currently have any infrastructure for the sales, marketing, or distribution of any product, and the cost of establishing and maintaining such an organization may exceed the cost-effectiveness of doing so. In order to market any product that may be approved, we must build our sales, distribution, marketing, managerial and other nontechnical capabilities or make arrangements with third parties to perform these services.

We currently expect to build a dermatologist-focused sales, distribution and marketing infrastructure to market our product candidates in North America, if approved. There are significant expenses and risks involved with establishing our own sales, marketing and distribution capabilities, including our ability to hire, retain and appropriately incentivize qualified individuals, provide adequate training to sales and marketing personnel, and effectively manage geographically dispersed sales and marketing teams to generate sufficient demand. Any failure or delay in the development of our internal sales, marketing and distribution capabilities could delay any product

launch, which would adversely impact its commercialization. If the commercial launch of any of our product candidates, if approved, for which we recruit a sales force and establish marketing capabilities is delayed or does not occur for any reason, we would have prematurely or unnecessarily incurred these commercialization expenses. This may be costly, and our investment would be lost if we cannot retain or reposition our sales and marketing personnel.

If we are unable to establish adequate sales, marketing, and distribution capabilities, either on our own or in collaboration with third parties, we will not be successful in commercializing any of our product candidates and may not become profitable. We will be competing with many companies that currently have extensive and well-funded marketing and sales operations. Without an internal team or the support of a third party to perform marketing and sales functions, we may be unable to compete successfully against these more established companies.

If we seek to market any products in our pipeline in countries other than the United States, we will need to comply with the regulations of each country in which we seek to market our products.

None of our product candidates are currently approved for sale by any government authority in any jurisdiction. If we fail to comply with regulatory requirements in any market we decide to enter, or to obtain and maintain required approvals, or if regulatory approvals in the relevant markets are delayed, our target market will be reduced and our ability to realize the full market potential of our product candidates will be harmed. Marketing approval in one jurisdiction, including the United States, does not ensure marketing approval in another, but a failure or delay in obtaining marketing approval in one jurisdiction may have a negative effect on the regulatory process in others. Failure to obtain a marketing approval in countries in which we seek to market our products or any delay or setback in obtaining such approval would impair our ability to develop foreign markets for any of our products.

Our license agreements obligate us to make certain milestone payments, some of which will be triggered prior to our commercialization of any of our product candidates.

Certain of the milestone payments payable by us to AstraZeneca and Hengrui, are due upon events that will occur prior to our planned commercialization of the applicable product candidates. Accordingly, we will be required to make such payments prior to the time at which we are able to generate revenue, if any, from sales of any of our product candidates, if approved.

For example, upon regulatory approval from the FDA to commercialize roflumilast cream in the United States, but prior to commencement of commercialization or sales of roflumilast cream, we will be required to make certain milestone payments to AstraZeneca. We paid AstraZeneca the first milestone cash payment of $2.0 million upon the completion of a Phase 2b study of roflumilast cream in plaque psoriasis in August 2019 for the achievement of positive Phase 2 data for an AZ-Licensed Product (as defined below). We have agreed to make additional cash payments to AstraZeneca of up to an aggregate of $12.5 million upon the achievement of specified regulatory approval milestones with respect to products containing roflumilast in topical forms, as well as delivery systems sold with or for the administration of roflumilast, or collectively, AZ-Licensed Products, and payments up to an additional aggregate amount of $15.0 million upon the achievement of certain aggregate worldwide net sales milestones. With respect to any AZ-Licensed Products we commercialize under the agreement, we will pay AstraZeneca a low to high single-digit percentage royalty rate on our, our affiliates' and our sublicensees' net sales of such AZ-Licensed Products, until, as determined on an AZ-Licensed Product-by-AZ-Licensed Product and country-by-country basis, the later of the date of the expiration of the last-to-expire AstraZeneca-licensed patent right containing a valid claim in such country and ten years from the first commercial sale of such AZ-Licensed Product in such country.

In connection with the exercise of our exclusive option with Hengrui in December 2019, we made a $1.5 million cash payment and also contemporaneously amended the agreement to expand the territory to additionally include Canada. In addition, we have agreed to make cash payments of up to an aggregate of $20.5 million upon our achievement of specified clinical development and regulatory approval milestones with respect to the licensed products and cash payments of up to an additional $200.0 million in sales-based milestones based on achieving certain aggregate annual net sales volumes with respect to a licensed product. With respect to any products we commercialize under the agreement, we will pay tiered royalties to Hengrui on net sales of each licensed product by us, or our affiliates, or our sublicensees, ranging from mid single-digit to sub-teen percentage rates based on tiered annual net sales bands subject to specified reductions. We are obligated to pay royalties until the later of (1) the expiration of the last valid claim of the licensed patent rights covering such licensed product in such country and (2) the expiration of regulatory exclusivity for the relevant licensed product in the relevant country, on a licensed

product-by-licensed product and country-by-country basis. Additionally, we are obligated to pay Hengrui a specified percentage, ranging from the low-thirties to the sub-teens, of certain non-royalty sublicensing income we receive from sublicensees of our rights to the licensed products, such percentage decreasing as the development stage of the licensed products advance.

There can be no assurance that we will have the funds necessary to make such payments, or be able to raise such funds when needed, on terms acceptable to us, or at all. Furthermore, if we are forced to raise additional funds, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts, or grant rights to develop and market product candidates that we would otherwise develop and market ourselves. If we are unable to raise additional funds or maintain sufficient liquidity to make our payment obligations if and when they become due, including payment obligations under the license agreement with AstraZeneca and under the option and license agreement with Hengrui, we may be in material breach of our agreements and our counterparties may seek legal action or remedies against us (including by seeking to terminate the relevant agreements), which would harm our business, financial condition, results of operations and prospects.

We face significant competition from other biotechnology and pharmaceutical companies targeting medical dermatological indications, and our operating results will suffer if we fail to compete effectively.

The markets for dermatological therapies are competitive and are characterized by significant technological development and new product introduction. For example, there are several large and small pharmaceutical companies focused on delivering therapeutics for our targeted inflammatory and medical dermatological indications. We anticipate that, if we obtain regulatory approval of our product candidates, we will face significant competition from other approved therapies or drugs that become available in the future for the treatment of our target indications. If approved, our product candidates may also compete with unregulated, unapproved and off-label treatments. Even if another branded or generic product or OTC product is less effective than our product candidates, a less effective branded, generic or OTC product may be more quickly adopted by physicians and patients than our competing product candidates based upon cost or convenience.

Certain of our product candidates, if approved, will have to compete with existing therapies, some of which are widely known and accepted by physicians and patients. To compete successfully in this market, we will have to demonstrate that the relative cost, safety and efficacy of our approved products, if any, provide an attractive alternative to existing and other new therapies to gain a share of some patients' discretionary budgets and for physicians' attention within their clinical practices. Some of the companies that offer competing products also have a broad range of other product offerings, large direct sales forces and long-term customer relationships with our target physicians, which could inhibit our market penetration efforts. Such competition could lead to reduced market share for our product candidates and contribute to downward pressure on the pricing of our product candidates, which could harm our business, financial condition, operating results and prospects.

We are aware of several companies that are working to develop drugs that would compete against our product candidates for the treatment of psoriasis, atopic dermatitis, hand eczema, vitiligo and alopecia areata.

For psoriasis, our primary competitors include injected biologic therapies such as Humira, marketed by AbbVie Inc. and Eisai Co., Ltd., and Enbrel, marketed by Amgen Inc. and Pfizer Inc.; non-injectable systemic therapies used to treat plaque psoriasis such as Otezla, marketed by Amgen Inc.; topical therapies such as branded and generic versions of clobetasol, such as Clobex, marketed by Galderma Laboratories, LP, generic versions of calcipotriene and the combination of betamethasone dipropionate/calcipotriene; and other treatments including various lasers and ultraviolet light-based therapies. In addition, there are several prescription product candidates under development that could potentially be used to treat psoriasis and compete with roflumilast cream, including topical tapinarof, under development by Dermavant Sciences, Inc., and PF-06700841, an oral Tyk2/JAK1 inhibitor under development by Pfizer, Inc.

For atopic dermatitis, our primary competitors include topical therapies such as Eucrisa, marketed by Pfizer Inc., and generic and branded versions of low to mid-potency steroids such as hydrocortisone and betamethasone; and the injected biologic therapy Dupixent, marketed by Regeneron Pharmaceuticals, Inc. In addition, there are several prescription product candidates under development that could potentially be used to treat atopic dermatitis and compete with roflumilast cream, including but not limited to: topical tapinarof and topical cerdulatinib, both under development by Dermavant Sciences, Inc., topical ruxolitinib, under development by Incyte Corporation, topical delgocitinib, under development by LEO Pharma A/S and Japan Tobacco, Inc., topical PF-06700841, a Tyk2/JAK1 inhibitor under development by Pfizer, Inc., topical difamilast ointment, under development by Medimetriks/Otsuka

Pharma, oral PF-04965842, under development by Pfizer Inc., oral upatacitinib, under development by AbbVie, Inc., and injectable lebrikizumab, under development by Eli Lilly and Company.

For hand eczema, our primary competitors include topical therapies such as branded and generic versions of clobetasol, such as Clobex, and generic versions of betamethasone dipropionate. The only other prescription product candidate we are aware of under development for the treatment of hand eczema that would compete with ARQ-252 is delgocitinib, which recently showed proof-of-concept in a Phase 2a trial and has been approved in a different formulation in Japan (Corectim).

For vitiligo, our primary competitors include topical therapies such as generic and branded versions of calcineurin inhibitors, including Elidel, marketed by Bausch Health; branded and generic versions of high potency steroids, including Clobex, marketed by Galderma Laboratories, LP; and other treatments including various lasers and ultraviolet light-based therapies. In addition, there are several prescription product candidates under development that could potentially be used to treat vitiligo and compete with ARQ-252, including but not limited to: topical cerdulatinib, under development by Dermavant Sciences, Inc., topical ruxolitinib, under development by Incyte Corporation, and both oral PF-06651600 and oral PF-06700841, under development by Pfizer Inc.

For alopecia areata, our primary competitors include topical therapies such as branded and generic versions of high potency steroids, including Clobex, marketed by Galderma Laboratories, LP; intralesional corticosteroid injections such as branded and generic versions of triamcinolone, including Kenalog, marketed by Bristol-Myers Squib; and systemic immunosuppressants including generic versions of systemic steroids such as prednisone, branded and generic versions of cyclosporine, including Sandimmune, marketed by Sandoz, and branded systemic JAK inhibitors, including Xeljanz, marketed by Pfizer, Inc. In addition, there are several prescription product candidates under development that could potentially be used to treat alopecia areata and compete with ARQ-255, including but not limited to: topical PF-06700841 and oral PF-06651600, under development by Pfizer, Inc., oral CTP-543, under development by Concert Pharmaceuticals, and oral baricitinib, under development by Eli Lilly and Company.

Many of our existing or potential competitors have substantially greater financial, technical and human resources than we do and significantly greater experience in the discovery and development of product candidates, as well as in obtaining regulatory approvals of those product candidates in the United States and in foreign countries. Many of our current and potential future competitors also have significantly more experience commercializing drugs that have been approved for marketing. Mergers and acquisitions in the pharmaceutical and biotechnology industries could result in even more resources being concentrated among a smaller number of our competitors. Competition may reduce the number and types of patients available to us to participate in clinical trials, because some patients who might have opted to enroll in our trials may instead opt to enroll in a trial being conducted by one of our competitors.

Due to less stringent regulatory requirements in certain foreign countries, there are many more dermatological products and procedures available for use in those international markets than are approved for use in the United States. In certain international markets, there are also fewer limitations on the claims that our competitors can make about the effectiveness of their products and the manner in which they can market their products. As a result, we expect to face more competition in these markets than in the United States.

Our ability to compete successfully will depend largely on our ability to:

- develop and commercialize therapies that are superior to other products in the market;
- demonstrate through our clinical trials that our product candidates are differentiated from existing and future therapies;
- attract qualified scientific, product development and commercial personnel;
- obtain patent or other proprietary protection for our technologies and product;
- obtain required regulatory approvals, including approvals to market our product candidates in ways that are differentiated from existing and future therapies and OTC products and treatments;
- successfully commercialize our product candidates, if approved;
- obtain coverage and adequate reimbursement from, and negotiate competitive pricing with, third-party payors; and

- successfully collaborate with pharmaceutical companies in the discovery, development and commercialization of new therapies.

The availability of our competitors' products could limit the demand and the price we are able to charge for any product candidate we develop. The inability to compete with existing or subsequently introduced drugs or OTC treatments would have an adverse impact on our business, financial condition and prospects.

Risks Related to Our Business and Operations

We will need to increase the size of our organization, and we may experience difficulties in executing our growth strategy and managing any growth.

As of June 30, 2020, we had 49 full-time employees. We will need to continue to expand our managerial, operational, finance and other resources in order to manage our operations and clinical trials, continue our development activities and commercialize our lead product candidates or any future product candidates.

Our management and personnel, systems and facilities currently in place are not adequate to support our future growth. In order to effectively execute our growth strategy, we will need to identify, recruit, retain, incentivize and integrate additional employees in order to expand our ability to:

- manage our clinical trials effectively;
- manage our internal development and operational efforts effectively while carrying out our contractual obligations to third parties;
- continue to improve our operational, financial, management and regulatory compliance controls and reporting systems and procedures;
- develop a marketing, sales and distribution capability;
- manage our commercialization activities for our product candidates effectively and in a cost-effective manner;
- establish and maintain relationships with development and commercialization partners; and
- manage our third-party supply and manufacturing operations effectively and in a cost-effective manner, while increasing production capabilities for our current product candidates to commercial levels.

If we are unable to successfully identify, recruit, retain, incentivize and integrate additional employees and otherwise expand our managerial, operational, finance and other resources, our business and operational performance will be materially and adversely affected.

If we are not successful in acquiring, developing, and commercializing additional product candidates, our ability to expand our business and achieve our strategic objectives would be impaired.

Although a substantial amount of our effort will focus on the continued preclinical and clinical testing and potential approval of our current product candidates, a key element of our strategy is to acquire, develop and commercialize a diverse portfolio of product candidates to serve the dermatology market. We do not currently intend to conduct drug discovery or research and development efforts to discover new product candidates, but rather we intend to acquire or in-license rights to existing molecules to develop for dermatological indications. In addition, while we believe that our strategy allows us to move more rapidly through clinical development and at a potentially lower cost, we may be unable to progress product candidates more quickly or at a lower cost.

In the event we seek to identify and acquire or in-license additional product candidates in the dermatology field, our process for doing so may be slow and may ultimately be unsuccessful for a number of reasons, including those discussed in these risk factors and also:

- potential product candidates may, upon further study, be shown to have harmful side effects or other characteristics that indicate that they are unlikely to be products that will receive marketing approval and achieve market acceptance;
- potential product candidates may not be effective in treating their targeted diseases; or

- the acquisition or in-licensing transactions can entail numerous operational and functional risks, including exposure to unknown liabilities, disruption of our business, or incurrence of substantial debt or dilutive issuances of equity securities to pay transaction consideration or costs, or higher than expected acquisition or integration costs.

We may choose to focus our efforts and resources on an in-licensing or acquiring a potential product candidate that ultimately proves to be unsuccessful. We also cannot be certain that, following an acquisition or in-licensing transaction, we will achieve the revenue or specific net income that justifies such transaction. If we are unable to identify and acquire suitable product candidates for clinical development, this would adversely impact our business strategy, our financial position and share price.

Any collaboration arrangements that we may enter into in the future may not be successful, which could adversely affect our ability to develop and commercialize future product candidates.

We may seek collaboration arrangements for the commercialization, or potentially for the development, of certain of our product candidates depending on the merits of retaining commercialization rights for ourselves as compared to entering into collaboration arrangements. We will face, to the extent that we decide to enter into collaboration agreements, significant competition in seeking appropriate collaborators. Moreover, collaboration arrangements are complex and time-consuming to negotiate, document, implement and maintain. We may not be successful in our efforts to establish and implement collaborations or other alternative arrangements should we so chose to enter into such arrangements. The terms of any collaborations or other arrangements that we may establish may not be favorable to us. Any future collaborations that we enter into may not be successful. The success of our collaboration arrangements will depend heavily on the efforts and activities of our collaborators. Collaborations are subject to numerous risks, which may include risks that:

- collaborators have significant discretion in determining the efforts and resources that they will apply to collaborations;
- collaborators may not pursue development and commercialization of our product candidates or may elect not to continue or renew development or commercialization programs based on clinical trial results, changes in their strategic focus due to their acquisition of competitive products or their internal development of competitive products, availability of funding or other external factors, such as a business combination that diverts resources or creates competing priorities;
- collaborators may delay clinical trials, provide insufficient funding for a clinical trial program, stop a clinical trial, abandon a product candidate, repeat or conduct new clinical trials or require a new formulation of a product candidate for clinical testing;
- collaborators could independently develop, or develop with third parties, products that compete directly or indirectly with our products or product candidates;
- a collaborator with sales, marketing, manufacturing and distribution rights to one or more products may not commit sufficient resources to or otherwise not perform satisfactorily in carrying out these activities;
- we could grant exclusive rights to our collaborators that would prevent us from collaborating with others;
- collaborators may not properly maintain or defend our intellectual property rights or may use our intellectual property or proprietary information in a way that gives rise to actual or threatened litigation that could jeopardize or invalidate our intellectual property or proprietary information or expose us to potential liability;
- disputes may arise between us and a collaborator that causes the delay or termination of the research, development or commercialization of our current or future product candidates or that results in costly litigation or arbitration that diverts management attention and resources;
- collaborations may be terminated, and, if terminated, this may result in a need for additional capital to pursue further development or commercialization of the applicable current or future product candidates;
- collaborators may own or co-own intellectual property covering products that results from our collaborating with them, and in such cases, we would not have the exclusive right to develop or commercialize such intellectual property;
- disputes may arise with respect to the ownership of any intellectual property developed pursuant to our collaborations; and

- a collaborator's sales and marketing activities or other operations may not be in compliance with applicable laws resulting in civil or criminal proceedings.

Furthermore, we cannot assure you that following any such collaboration, or other strategic transaction, we will achieve the expected synergies to justify the transaction. For example, such transactions may require us to incur non-recurring or other charges, increase our near- and long-term expenditures and pose significant integration or implementation challenges or disrupt our management or business. These transactions would entail numerous operational and financial risks, including exposure to unknown liabilities, disruption of our business and diversion of our management's time and attention in order to manage a collaboration or develop acquired products, product candidates or technologies, incurrence of substantial debt or dilutive issuances of equity securities to pay transaction consideration or costs, higher than expected collaboration, acquisition or integration costs, write-downs of assets or goodwill or impairment charges, increased amortization expenses, difficulty and cost in facilitating the collaboration or combining the operations and personnel of any acquired business, impairment of relationships with key suppliers, manufacturers or customers of any acquired business due to changes in management and ownership and the inability to retain key employees of any acquired business.

If we fail to attract and retain management and other key personnel, we may be unable to continue to successfully develop our current and any future product candidates, commercialize our product candidates or otherwise implement our business plan.

Our ability to compete in the highly competitive pharmaceuticals industry depends upon our ability to attract and retain highly qualified managerial, scientific, medical, sales and marketing and other personnel. We are highly dependent on our management and scientific personnel, including our Chief Executive Officer, Todd Franklin Watanabe and our Chief Technical Officer, David W. Osborne, Ph.D, and our Chief Medical Officer, Patrick Burnett, M.D., Ph.D. The loss of the services of any of these individuals could impede, delay or prevent the successful development of our product pipeline, completion of our planned clinical trials, commercialization of our products or in-licensing or acquisition of new assets and could negatively impact our ability to successfully implement our business plan. If we lose the services of any of these individuals, we might not be able to find suitable replacements on a timely basis or at all, and our business could be harmed as a result. We do not maintain "key man" insurance policies on the lives of these individuals or the lives of any of our other employees.

We employ all of our executive officers and key personnel on an at-will basis and their employment can be terminated by us or them at any time, for any reason and without notice. In order to retain valuable employees at our company, in addition to salary and cash incentives, we provide 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 will be significantly affected by movements in our stock price that are beyond our control, and may at any time be insufficient to counteract offers from other companies.

We might not be able to attract or retain qualified management and other key personnel in the future due to the intense competition for qualified personnel among biotechnology, pharmaceutical and other businesses, particularly in the Northern Los Angeles Area where we are headquartered. We could have difficulty attracting experienced personnel to our company and may be required to expend significant financial resources in our employee recruitment and retention efforts. Many of the other pharmaceutical companies with whom we compete for qualified personnel have greater financial and other resources, different risk profiles and longer histories in the industry than we do. They also may provide more diverse opportunities and better chances for career advancement. If we are not able to attract and retain the necessary personnel to accomplish our business objectives, we may experience constraints that will harm our ability to implement our business strategy and achieve our business objectives.

In addition, we have scientific and clinical advisors who assist us in formulating our development and clinical strategies. These advisors are not our employees and may have commitments to, or consulting or advisory contracts with, other entities that may limit their availability to us. In addition, our advisors may have arrangements with other companies to assist those companies in developing products or technologies that may compete with ours.

If product liability lawsuits are brought against us, we may incur substantial liabilities and may be required to limit commercialization of our current or future product candidates.

We face an inherent risk of product liability as a result of the clinical testing of our product candidates and will face an even greater risk if we commercialize any products. For example, we may be sued if any product we develop allegedly causes 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 warranty. 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 product candidates. Even successful defense would require significant financial and management resources. Regardless of the merits or eventual outcome, liability claims may result in:

- decreased demand for our current or future product candidates;
- injury to our reputation;
- withdrawal of clinical trial participants;
- costs to defend the related litigation;
- a diversion of management's time and our resources;
- substantial monetary awards to trial participants or patients;
- regulatory investigations, product recalls, withdrawals or labeling, marketing or promotional restrictions;
- loss of revenue; and
- the inability to commercialize our current or any future product candidates.

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 current or any future product candidates we develop. Although we currently carry product liability insurance covering our clinical trials, 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. 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 funds 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 any of our product candidates, we intend to expand our insurance coverage to include the sale of such product candidate; however, we may be unable to obtain this liability insurance on commercially reasonable terms or at all.

As a new public company, we will incur significant costs as a result of operating as a public company, and our management will devote substantial time to new compliance initiatives. We may fail to comply with the rules that apply to public companies, including Section 404 of the Sarbanes-Oxley Act of 2002, which could result in sanctions or other penalties that would harm our business.

We completed our IPO in January 2020 and are subject to public company reporting obligations under the Securities Exchange Act of 1934, as amended, or the Exchange Act, We will incur significant legal, accounting and other expenses as a public company, including costs resulting from such public company reporting obligations and regulations regarding corporate governance practices. The listing requirements of the Nasdaq Global Select Market and the rules of the Securities and Exchange Commission, or SEC, require that we satisfy certain corporate governance requirements relating to director independence, filing annual and interim reports, stockholder meetings, approvals and voting, soliciting proxies, conflicts of interest and a code of conduct. Our management and other personnel will need to devote a substantial amount of time to ensure that we comply with all of these requirements. Moreover, the reporting requirements, rules and regulations will increase our legal and financial compliance costs and will make some activities more time-consuming and costly. Any changes we make to comply with these obligations may not be sufficient to allow us to satisfy our obligations as a public company on a timely basis, or at all. These reporting requirements, rules and regulations, coupled with the increase in potential litigation exposure associated with being a public company, could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors or board committees or to serve as executive officers, or to obtain certain types of insurance, including directors' and officers' insurance, on acceptable terms.

We are subject to Section 404 of The Sarbanes-Oxley Act of 2002, or Section 404, and the related rules of the SEC, which generally require our management and independent registered public accounting firm to report on the effectiveness of our internal control over financial reporting. Beginning with our next annual report that we will be required to file with the SEC, Section 404 requires an annual management assessment of the effectiveness of our internal control over financial reporting. However, for so long as we remain an emerging growth company as defined in the JOBS Act, we intend to take advantage of certain exemptions from various reporting requirements, including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404. Once we are no longer an emerging growth company and otherwise do not meet the definition of a "smaller reporting company" (SRC) and non-accelerated filer or, if prior to such date, we opt to no longer take advantage of the applicable exemption, we will be required to include an opinion from our independent registered public accounting firm on the effectiveness of our internal controls over financial reporting. We will remain an emerging growth company until the last day of our fiscal year following the fifth anniversary of the completion of our IPO. However, if certain events occur prior to the end of such five-year period, including if we become a “large accelerated filer,” our annual gross revenues exceed $1.07 billion or we issue more than $1.0 billion of non-convertible debt in any three-year period, we will cease to be an emerging growth company prior to the end of such five-year period.

In addition, we have begun to implement an enterprise resource planning, or ERP, system for our company. An ERP system is intended to combine and streamline the management of our financial, accounting, human resources, sales and marketing and other functions, enabling us to manage operations and track performance more effectively. However, the ERP system is requiring us to complete many processes and procedures for the effective use of the system or to run our business using the system, which may result in substantial costs. Additionally, during the conversion process, we may be limited in our ability to convert any business that we acquire to the ERP. Any disruptions or difficulties in implementing or using an ERP system could adversely affect our controls and harm our business, including our ability to forecast or make sales and collect our receivables. Moreover, such disruption or difficulties could result in unanticipated costs and diversion of management attention.

To date, we have never conducted a review of our internal control for the purpose of providing the reports required by these rules. During the course of our review and testing, we may identify deficiencies and be unable to remediate them before we must provide the required reports. Furthermore, if we have a material weakness in our internal controls over financial reporting, we may not detect errors on a timely basis and our financial statements may be materially misstated. We or our independent registered public accounting firm may not be able to conclude on an ongoing basis that we have effective internal control over financial reporting, which could harm our operating results, cause investors to lose confidence in our reported financial information and cause the trading price of our stock to fall. In addition, as a public company we will be required to file accurate and timely quarterly and annual reports with the SEC under the Exchange Act. Any failure to report our financial results on an accurate and timely basis could result in sanctions, lawsuits, delisting of our shares from the Nasdaq Global Select Market or other adverse consequences that would materially harm to our business.

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

Our results of operations could be adversely affected by general conditions in the global economy and in the global financial markets. A global financial crisis or a global or regional political disruption could cause extreme volatility in the capital and credit markets. For example, outbreaks of epidemic, pandemic, or contagious diseases, such as the recent COVID-19 outbreak, could disrupt our business. Business disruptions could include disruptions to the enrollment, clinical site availability, patient accessibility and conduct of our clinical trials, as well as temporary closures of the facilities of suppliers or contract manufacturers in the biotechnology supply chain. In addition, the COVID-19 outbreak may result in a severe economic downturn and has already significantly affected the financial markets of many countries. A severe or prolonged economic downturn or political disruption could result in a variety of risks to our business, including our ability to raise capital when needed on acceptable terms, if at all. A weak or declining economy or political disruption could also strain our manufacturers or suppliers, possibly resulting in supply disruption, or cause our customers to delay making payments for our services. Any of the foregoing could harm our business and we cannot anticipate all of the ways in which the political or economic climate and financial market conditions could adversely impact our business.

We or the third parties upon whom we depend may be adversely affected by earthquakes or other natural disasters and our business continuity and disaster recovery plans may not adequately protect us from a serious disaster.

Our corporate headquarters and other facilities are located in the Northern Los Angeles Area, which in the past has experienced both severe earthquakes and wildfires. We do not carry earthquake insurance. Earthquakes, wildfires or other natural disasters could severely disrupt our operations, and have a material adverse effect on our business, results of operations, financial condition and prospects.

If a natural disaster, power outage or other event occurred, including an epidemic, pandemic or contagious disease outbreak such as COVID-19 that disrupted operations, we may experience difficulties in operating our business for a substantial period of time. The disaster recovery and business continuity plans we have in place currently are limited and are unlikely to prove adequate in the event of a serious disaster or similar event. We may incur substantial expenses as a result of the limited nature of our disaster recovery and business continuity plans, which, particularly when taken together with our lack of earthquake insurance, could have a material adverse effect on our business.

Furthermore, our third-party manufacturers or suppliers are similarly vulnerable to natural disasters or other sudden, unforeseen and severe adverse events. If such an event were to affect our supply chain, it could have a material adverse effect on our business.

We depend on our information technology systems, and any failure of these systems, or those of our CROs or other contractors or consultants we may utilize, could harm our business. Security breaches, cyber-attacks, loss of data, and other disruptions could compromise sensitive information related to our business or prevent us from accessing critical information and expose us to liability, which could adversely affect our business, results of operations, financial condition and prospects.

We collect and maintain information in digital form that is necessary to conduct our business, and we are increasingly dependent on information technology systems and infrastructure to operate our business. In the ordinary course of our business, we collect, store and transmit large amounts of confidential information, including intellectual property, proprietary business information and personal information. It is critical that we do so in a secure manner to maintain the confidentiality and integrity of such confidential information. We have established physical, electronic, and organizational measures to safeguard and secure our systems to prevent a data compromise, and rely on commercially available systems, software, tools, and monitoring to provide security for our information technology systems and the processing, transmission and storage of digital information. We have also outsourced elements of our information technology infrastructure, and as a result a number of third-party vendors may or could have access to our confidential information. Our internal information technology systems and infrastructure, and those of our current and any future collaborators, contractors and consultants and other third parties on which we rely, are vulnerable to damage from computer viruses, malware, natural disasters, terrorism, war, telecommunication and electrical failures, cyber-attacks or cyber-intrusions over the Internet, attachments to emails, persons inside our organization, or persons with access to systems inside our organization.

The risk of a security breach or disruption, particularly through cyber-attacks or cyber intrusion, including by computer hackers, foreign governments, and cyber terrorists, has generally increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased. In addition, the prevalent use of mobile devices that access confidential information increases the risk of data security breaches, which could lead to the loss of confidential information or other intellectual property. The costs to us to mitigate network security problems, bugs, viruses, worms, malicious software programs and security vulnerabilities could be significant, and while we have implemented security measures to protect our data security and information technology systems, our efforts to address these problems may not be successful, and these problems could result in unexpected interruptions, delays, cessation of service and other harm to our business and our competitive position. If such an event were to occur and cause interruptions in our operations, it could result in a material disruption of our product development programs. For example, the loss of clinical trial data from completed or ongoing or planned clinical trials could result in delays in our regulatory approval efforts and significantly increase our costs to recover or reproduce the data. Moreover, if a computer security breach affects our systems or results in the unauthorized release of personally identifiable information, our reputation could be materially damaged. In addition, such a breach may require notification to governmental agencies, the media or individuals pursuant to various federal and state privacy and security laws (and other similar non-U.S. laws), if applicable, including the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Clinical Health Act of 2009, and its implementing rules and regulations, as well as regulations promulgated by the Federal Trade Commission and state breach notification laws. By way of example, on June 28, 2018, California enacted the California Consumer Privacy Act, or CCPA, which took effect on January 1, 2020. The CCPA creates individual privacy rights for California consumers and increases the privacy and security obligations of entities handling certain personal

information. The CCPA provides for civil penalties for violations, as well as a private right of action for data breaches that is expected to increase data breach litigation. The CCPA may increase our compliance costs and potential liability, and similar laws have been proposed at the federal level and in other states as well as in non-U.S. jurisdictions. We would also be exposed to a risk of loss or litigation and potential liability, which could materially adversely affect our business, results of operations and financial condition.

Our future commercial partners, as well as our employees and independent contractors, including principal investigators, consultants, suppliers, service providers and other vendors may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements, which could have an adverse effect on our results of operations

We are exposed to the risk that our future commercial partners, as well as our employees and independent contractors, including principal investigators, consultants, suppliers, service providers and other vendors may engage in misconduct or other illegal activity. Misconduct by these parties could include intentional, reckless and/or negligent conduct or other unauthorized activities that violate the laws and regulations of the FDA and other similar foreign regulatory authorities, including those laws that require the reporting of true, complete and accurate information to such foreign regulatory authorities; manufacturing standards; U.S. federal and state healthcare fraud and abuse, data privacy laws and other similar non-U.S. laws; or laws that require the true, complete and accurate reporting of financial information or data. Activities subject to these laws also involve the improper use or misrepresentation of information obtained in the course of clinical trials, the creation of fraudulent data in our preclinical studies or clinical trials, or illegal misappropriation of product, which could result in regulatory sanctions and cause serious harm to our reputation. It is not always possible to identify and deter misconduct by employees and other third-parties, and the precautions we take to detect and prevent this activity 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. In addition, we are subject to the risk that a person or government could allege such fraud or other misconduct, even if none occurred. 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 and financial results, including, without limitation, the imposition of significant civil, criminal and administrative penalties, damages, monetary fines, disgorgements, possible exclusion from participation in Medicare, Medicaid and other U.S. healthcare programs, individual imprisonment, other sanctions, 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.

Our business involves the use of hazardous materials and we and our third-party manufacturers and suppliers must comply with environmental laws and regulations, which can be expensive and restrict how we do business.

Our research and development activities and our third-party manufacturers' and suppliers' activities involve the controlled storage, use and disposal of hazardous materials owned by us, including the components of our product and product candidates and other hazardous compounds. We and our manufacturers and suppliers are subject to laws and regulations governing the use, manufacture, storage, handling and disposal of these hazardous materials. In some cases, these hazardous materials and various wastes resulting from their use are stored at our and our manufacturers' facilities pending their use and disposal. We cannot eliminate the risk of contamination, which could cause an interruption of our commercialization efforts, research and development efforts and business operations, environmental damage resulting in costly clean-up and liabilities under applicable laws and regulations governing the use, storage, handling and disposal of these materials and specified waste products. Although we believe that the safety procedures utilized by our third-party manufacturers for handling and disposing of these materials generally comply with the standards prescribed by these laws and regulations, we cannot guarantee that this is the case or eliminate the risk of accidental contamination or injury from these materials. In such an event, we may be held liable for any resulting damages and such liability could exceed our resources and state or federal or other applicable authorities may curtail our use of certain materials and/or interrupt our business operations. Furthermore, environmental laws and regulations are complex, change frequently and have tended to become more stringent. We cannot predict the impact of such changes and cannot be certain of our future compliance. We do not currently carry biological or hazardous waste insurance coverage.

Risks Related to Our Reliance on Third Parties

We currently rely on single source third-party manufacturers to manufacture preclinical and clinical supplies of our product candidates and we intend to rely on third parties to produce commercial supplies of any approved product candidate. The loss of these manufacturers, or their failure to provide us with sufficient quantities at acceptable quality levels or prices, or at all, would materially and adversely affect our business.

We do not currently have nor do we plan to build or acquire the infrastructure or capability internally to manufacture supplies of our product candidates or the materials necessary to produce our product candidates for use in the conduct of our preclinical studies or clinical trials, and we lack the internal resources and the capability to manufacture any of our product candidates on a preclinical, clinical or commercial scale. Instead, we currently rely on single source third-party manufacturers to manufacture preclinical and clinical supplies of our product candidates and we intend to rely on third parties to produce commercial supplies of any approved product candidate. In the fourth quarter of 2019, we received a batch of our product candidate that we believe is representative of our anticipated early commercial batch requirements. However, as a late-stage company with no prior history of product sales or commercialization of products, representative batches of our product candidate received to date may not represent what will be required to meet our future commercial requirements or be manufactured at scale.

We and the manufacturers of our products rely on suppliers of raw materials used in the production of our products. Some of these materials are available from only one source. Additionally, we have not yet engaged any manufacturer for the commercial supply of our product candidates. Although we intend to enter into such agreements prior to commercial launch of any of our product candidates, we may be unable to enter into any such agreement or do so on commercially reasonable terms, which could have a material adverse impact upon our business. Moreover, if there is a disruption to one or more of our third-party suppliers' relevant operations, or if we are unable to enter into arrangements for the commercial manufacture of our product candidates, we will have no other means of producing our lead product candidates until they restore the affected facilities or we or they procure alternative manufacturing facilities or sources of supply. Our ability to progress our preclinical and clinical programs could be materially and adversely impacted if any of the third-party suppliers upon which we rely were to experience a significant business challenge, disruption or failure due to issues such as financial difficulties or bankruptcy, issues relating to other customers such as regulatory or quality compliance issues, or other financial, legal, regulatory or reputational issues. Additionally, any damage to or destruction of our third-party manufacturer's facilities or equipment may significantly impair our ability to manufacture our product candidates on a timely basis.

Furthermore, there are a limited number of suppliers for materials we use in our product candidates, which exposes us to the risk of disruption in the supply of the materials necessary to manufacture our product candidates for our preclinical studies and clinical trials, and if approved, ultimately for commercial sale. In the case of ARQ-252 and ARQ-255, we have an agreement with Hengrui for the supply of SHR0302 API for preclinical studies and clinical trials. We do not have any control over the process or timing of the acquisition or manufacture of materials by our manufacturers. In addition, any significant delay in, or quality control problems with respect to, the supply of a product candidate, or the raw material components thereof, for an ongoing study or trial could considerably delay completion of our preclinical studies or clinical trials, product testing and potential regulatory approval of our product candidates.

In addition, to manufacture our product candidates in the quantities that we believe would be required to meet anticipated market demand, our third-party manufacturers may need to increase manufacturing capacity and, in some cases, we plan to secure alternative sources of commercial supply, which could involve significant challenges and may require additional regulatory approvals Neither we nor our third-party manufacturers may successfully complete any required increase to existing manufacturing capacity in a timely manner, or at all. If our manufacturers or we are unable to purchase the raw materials necessary for the manufacture of our product candidates on acceptable terms, at sufficient quality levels, or in adequate quantities, if at all, the commercial launch of our lead product candidates or any future product candidates would be delayed or there would be a shortage in supply, which would impair our ability to generate revenues from the sale of such product candidates, if approved.

The loss of these suppliers, or their failure to comply with applicable regulatory requirements or to provide us with sufficient quantities at acceptable quality levels or prices, or at all, would materially and adversely affect our business.

If our third-party manufacturers fail to comply with manufacturing or other regulations, our financial results and financial condition will be adversely affected.

If our contract manufacturers cannot successfully manufacture material that conforms to our specifications and the strict regulatory requirements of the FDA or comparable regulatory authorities in foreign jurisdictions, we may not be able to rely on their manufacturing facilities for the manufacture or our product candidates.

Before beginning commercial manufacture of roflumilast cream, roflumilast foam, ARQ-252 or ARQ-255, the process and systems used in the manufacture of roflumilast cream, roflumilast foam, ARQ-252 or ARQ-255 must be approved and each facility must have a compliance status that is acceptable to the FDA and other regulatory authorities. In addition, pharmaceutical manufacturing facilities are continuously subject to inspection by the FDA and foreign regulatory authorities, before and after product approval. Due to the complexity of the processes used to manufacture pharmaceutical products and product candidates, any potential third-party manufacturer may be unable to continue to pass or initially pass federal, state or international regulatory inspections. Furthermore, although we do not have day-to-day control over the operations of our contract manufacturers, we are responsible for ensuring compliance with applicable laws and regulations, including cGMPs.

If a third-party manufacturer with whom we contract is unable to comply with applicable laws and regulations, including cGMPs, roflumilast cream, roflumilast foam, ARQ-252 or ARQ-255 may not be approved, or we may be subject to fines, unanticipated compliance expenses, recall or seizure of our products, total or partial suspension of production and/or enforcement actions, including injunctions, and criminal or civil prosecution. These possible sanctions would adversely affect our financial results and financial condition.

We rely on third parties to conduct our non-clinical studies and our clinical trials. If these third parties do not successfully carry out their contractual duties or meet expected deadlines, we may be unable to obtain regulatory approval for or commercialize roflumilast cream, roflumilast foam, ARQ-252, ARQ-255 or any future product candidates.

We do not have the ability to independently conduct non-clinical studies and clinical trials. We rely on third parties, such as CROs, to conduct preclinical studies and clinical trials of roflumilast cream, roflumilast foam, ARQ-252 and ARQ-255. The third parties with whom we contract for execution of our preclinical studies and clinical trials play a significant role in the conduct of these studies and trials and the subsequent collection and analysis of data. However, these third parties are not our employees, and except for contractual duties and obligations, we have limited ability to control the amount or timing of resources that they devote to our programs. These third parties may also have relationships with other commercial entities, some of which may compete with us. In some cases, these third parties could terminate their agreements with us without cause. Furthermore, external events such as the COVID-19 pandemic could interfere with some operations of these CROs.

Although we rely on third parties to conduct our preclinical studies and clinical trials, we remain responsible for ensuring that each of our preclinical studies and clinical trials is conducted in accordance with its investigational plan and protocol. Moreover, the FDA and foreign regulatory authorities require us to comply with regulations and standards, including some regulations commonly referred to as good clinical practices, or GCPs, for conducting, monitoring, recording and reporting the results of clinical trials to ensure that the data and results are scientifically credible and accurate, and that appropriate human subjects protections are in place, including that the trial subjects are adequately informed of the potential risks and other consequences of participating in clinical trials.

In addition, the execution of non-clinical studies and clinical trials, and the subsequent compilation and analysis of the data produced, requires coordination among various parties. In order for these functions to be carried out effectively and efficiently, it is imperative that these parties communicate and coordinate with one another. If the third parties conducting our clinical trials do not perform their contractual duties or 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 or GCPs, or for any other reason, we may need to enter into new arrangements with alternative third parties, which could be difficult, costly or impossible, and our clinical trials may be extended, delayed or terminated or may need to be repeated, which would have a material adverse effect on our business.

Risks Related to Intellectual Property

We may not be able to obtain, maintain or enforce patent rights or other intellectual property rights that cover our product candidates and technologies that are of sufficient breadth to prevent third parties from competing against us.

Our success with respect to our product candidates and technologies will depend in part on our and our licensors' ability to obtain and maintain patent protection in both the United States and other countries, to preserve our trade secrets and to prevent third parties from infringing upon our proprietary rights. Our ability to protect any of our product candidates from unauthorized or infringing use by third parties depends in substantial part on our ability to obtain and maintain valid and enforceable patents.

Our patent portfolio includes patents and patent applications in the United States and foreign jurisdictions where we believe there is a market opportunity for our products. The covered technology and the scope of coverage vary from country to country. For those countries where we do not have granted patents, we may not have any ability to prevent the unauthorized use of our technologies. Any patents that we may obtain may be narrow in scope and thus easily circumvented by competitors. Further, in countries where we do not have granted patents, third parties may be able to make, use or sell products identical to or substantially similar to, our product candidates.

The patent application process, also known as patent prosecution, is expensive and time-consuming, and we and our current licensors, or any future licensors or 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, our patents and applications may not be prosecuted, and as a result may not be able to be enforced in a manner consistent with the best interests of our business. It is possible that defects of form in the preparation or filing of our patents or patent applications may exist, or may arise in the future, such as with respect to proper priority claims, inventorship, claim scope or patent term adjustments. 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. Moreover, our competitors may independently develop equivalent knowledge, methods and know-how to our processes, methods, and know-how which we consider our trade secrets. Any of these outcomes could impair our ability to prevent competition from third parties, which may have an adverse impact on our business, financial condition and operating results.

Due to legal standards relating to patentability, validity, enforceability and claim scope of patents covering pharmaceutical inventions, our and our licensor's ability to obtain, maintain and enforce patents is uncertain and involves complex legal and factual questions. Accordingly, rights under our existing patents or any patents we might obtain or license may not cover our product candidates, or may not provide us with sufficient protection for our product candidates to afford a commercial advantage against competitive products or processes, including those from branded and generic pharmaceutical companies. In addition, we cannot guarantee that any patents will issue from any pending or future patent applications owned by or licensed to us. Even with respect to our patents that have issued or will issue, we cannot guarantee that the claims of these patents are or will be held valid or enforceable by the courts or will provide us with any significant protection against competitive products or otherwise be commercially valuable to us. Publications of discoveries in the scientific literature often lag behind the actual discoveries, and patent applications in the United States and other jurisdictions are typically not published until 18 months after filing, or in some cases not at all. Therefore, we cannot know with certainty whether we or our licensors were the first to make the inventions claimed in our patents or pending patent applications, or that we or our licensors were the first to file for patent protection of such inventions. As a result, the issuance, scope, validity, enforceability and commercial value of our patent rights are highly uncertain. Our pending and future patent applications may not result in patents being issued that protect our technology or drugs, in whole or in part, or which effectively prevent others from commercializing competitive technologies and drugs. Changes in either the patent laws or interpretation of the patent laws in the United States and other countries may diminish the value of our patents or narrow the scope of our patent protection.

Competitors in the field of dermatologic therapeutics have created a substantial amount of prior art, including scientific publications, patents and patent applications. Our ability to obtain and maintain valid and enforceable patents depends on whether the differences between our technology and the prior art allow our technology to be patentable over the prior art. Although we believe that our technology includes certain inventions that are unique and not duplicative of any prior art, we do not have outstanding issued patents covering all of the recent developments in our technology and we are unsure of the patent protection that we will be successful in obtaining, if any, over such aspects of our technology. Even if patents do successfully issue covering such aspects of our technology, third parties may design around or challenge the validity, enforceability or scope of such issued patents or any other issued patents we own or license, which may result in such patents being narrowed, invalidated or held unenforceable. If the breadth or strength of protection provided by the patents we own or license 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. Even if the patent applications that we own or license issue as patents, they may not issue in a form that will provide us with any meaningful protection, prevent competitors from competing with us or otherwise provide us with any competitive advantage. Our competitors may be able to circumvent our patents by developing similar or alternative technologies or drugs in a non-infringing manner.

The laws of some foreign jurisdictions do not provide intellectual property rights to the same extent as in the United States and many companies have encountered significant difficulties in protecting and defending such rights in foreign jurisdictions. If we encounter such difficulties in protecting or are otherwise precluded from effectively protecting our intellectual property in foreign jurisdictions, our business prospects could be substantially harmed. The patent positions of pharmaceutical and biotechnology companies can be highly uncertain and involve complex legal and factual questions for which important legal principles remain unresolved. Changes in either the patent laws or in the interpretations of patent laws in the United States and other countries may diminish the value of our intellectual property. Accordingly, we cannot predict the breadth of claims that may be allowed or enforced in our patents or in third-party patents.

The degree of future protection of our proprietary rights is uncertain. Patent protection may be unavailable or severely limited in some cases and may not adequately protect our rights or permit us to gain or keep our competitive advantage. For example:

- we might not have been the first to invent or the first to file the inventions covered by each of our pending patent applications and issued patents;
- others may independently develop similar or alternative technologies or duplicate any of our technologies;
- the patents of others may have an adverse effect on our business;
- any patents we obtain or our licensors' issued patents may not encompass commercially viable products, may not provide us with any competitive advantages or may be challenged by third parties;
- for some product candidates, we expect that composition of matter patent protection for the active pharmaceutical ingredient will not be available at the time we expect to commercialize, and we will therefore need to rely on formulation, method of use and other forms of claims for patent protection;
- any patents we obtain or our in-licensed issued patents may not be valid or enforceable; and
- we may not develop additional proprietary technologies that are patentable.

Patents have a limited lifespan. In the United States, the natural expiration of a patent is generally 20 years after it is filed. 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, the extensive period of time between patent filing and regulatory approval for a product candidate limits the time during which we can market a product candidate under patent protection, which may particularly affect the profitability of our early-stage product candidates. Our issued U.S. patents relating to roflumilast cream and roflumilast foam with claims directed to, among other things, formulating roflumilast in combination with hexylene glycol are currently projected to expire on June 7, 2037 and the issued U.S. patents which we have exclusive rights to from Hengrui as a result of the exercise of our exclusive option with Hengrui in December 2019 for the amount of $1.5 million cash, related to the composition of matter of the active ingredient in ARQ-252 and ARQ-255 (or bisulfate or crystal forms thereof) are currently projected to expire between January 21, 2033 and October 15, 2035 unless a patent term extension is granted. Proprietary trade secrets and unpatented know-how are also very important to our business. Although we have taken steps to protect our trade secrets and unpatented know-how by entering into confidentiality agreements with third parties, and intellectual property protection agreements with certain employees, consultants and advisors, third parties may still obtain this information or we may be unable to protect our rights. We also have limited control over the protection of trade secrets used by our suppliers, manufacturers and other third parties. There can be no assurance that binding agreements will not be breached, that we would have adequate remedies for any breach or that our trade secrets and unpatented know-how will not otherwise become known or be independently discovered by our competitors. If trade secrets are independently discovered, we would not be able to prevent their use. Enforcing a claim that a third party illegally obtained and is using our trade secrets or unpatented know-how is expensive and time-consuming, and the outcome is unpredictable. In addition, courts outside the United States may be less willing to protect trade secret information.

We may become subject to claims alleging infringement of third parties' patents or proprietary rights and/or claims seeking to invalidate our patents, which would be costly, time consuming and, if successfully asserted against us, delay or prevent the development and commercialization of roflumilast cream, roflumilast foam, ARQ-252, ARQ-255 or any future product candidates.

There have been many lawsuits and other proceedings asserting patents and other intellectual property rights in the pharmaceutical and biotechnology industries. We cannot assure you that our exploitation of roflumilast cream, roflumilast foam, ARQ-252 or ARQ-255 will not infringe existing or future third-party patents. Because patent applications can take many years to issue and may be confidential for 18 months or more after filing, there may be applications now pending of which we are unaware and which may later result in issued patents that we may infringe by commercializing roflumilast cream, roflumilast foam, ARQ-252 or ARQ-255. Moreover, we may face claims from non-practicing entities that have no relevant product revenue and against whom our own patent portfolio may thus have no deterrent effect. We may be unaware of one or more issued patents that would be infringed by the manufacture, sale or use of roflumilast cream, roflumilast foam, ARQ-252 or ARQ-255.

We may be subject to third-party claims in the future against us or our collaborators that would cause us to incur substantial expenses and, if successful against us, could cause us to pay substantial damages, including treble damages and attorney's fees if we are found to be willfully infringing a third party's patents. We may be required to indemnify future collaborators against such claims. If a patent infringement suit were brought against us or our future collaborators, we or they 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. As a result of patent infringement claims, or in order to avoid potential claims, we or our collaborators may choose to seek, or be required to seek, a license from the third-party and would most likely be required to pay license fees or royalties or both. These licenses may not be available on acceptable terms, or at all. Even if we or our future collaborators were able to obtain a license, the rights obtained may be nonexclusive, which would not confer a competitive advantage to us from an exclusivity perspective. Ultimately, we could be prevented from commercializing a product, or forced to redesign it, or to cease some aspect of our business operations if, as a result of actual or threatened patent infringement claims, we or our collaborators are unable to enter into licenses on acceptable terms to necessary third party patent rights. Even if we are successful in defending against such claims, such litigation can be expensive and time consuming to litigate and would divert management's attention from our core business. Any of these events could harm our business significantly.

In addition to infringement claims against us, if third parties prepare and file patent applications in the United States that also claim technology similar or identical to ours, we may have to participate in interference or derivation proceedings in the United States Patent and Trademark Office, or the USPTO, to determine which party is entitled to a patent on the disputed invention. We may also become involved in similar opposition proceedings in the European Patent Office or similar offices in other jurisdictions regarding our intellectual property rights with respect to our products and technology. Since patent applications are confidential for a period of time after filing, we cannot be certain that we were the first to file any patent application related to our product candidates.

We may be subject to claims by third parties asserting that we, our employees or our licensors have misappropriated their intellectual property, including trade secrets, or claiming ownership of what we regard as our own intellectual property.

Many of our employees and our licensor's employees were previously employed at other biotechnology or pharmaceutical companies. Although we and our licensors try to ensure that our employees and our licensor's employees do not use the proprietary information or know-how of others in their work for us, including by contract, we or our licensors may be subject to claims that these employees, our licensors or we have used or disclosed intellectual property, including trade secrets or other proprietary information, of any such employee's former employer. Litigation may be necessary to defend against these claims.

In addition, while it is our policy to require our employees and contractors who may be involved in the development of intellectual property to execute agreements assigning such intellectual property to us, we may in the future be unsuccessful in executing such an agreement with each party who in fact develops intellectual property that we regard as our own. Our and their assignment agreements may not be self-executing or may be breached, and we may be forced to bring claims against third parties, or defend claims they may bring against us, to determine the ownership of what we regard as our intellectual property.

If we or our licensor fail in prosecuting or defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel. Even if we and our licensor are successful in prosecuting or defending against such claims, litigation could result in substantial costs.

The validity, scope and enforceability of any patents listed in the Orange Book that cover roflumilast cream, roflumilast foam, ARQ-252 or ARQ-255 can be challenged by competitors.

If roflumilast cream, roflumilast foam, ARQ-252 or ARQ-255 is approved by the FDA, one or more third parties may challenge the patents covering roflumilast cream, roflumilast foam, ARQ-252 or ARQ-255, which could result in the invalidation of, or render unenforceable, some or all of the relevant patent claims or a finding of non-infringement. For example, if a third party files an abbreviated new drug application, or ANDA, for a generic drug bioequivalent to roflumilast cream, roflumilast foam, ARQ-252 or ARQ-255, and relies in whole or in part on studies conducted by or for us, the third party will be required to certify to the FDA that either: (1) there is no patent information listed in the FDA's Orange Book with respect to our NDA for the applicable approved drug candidate; (2) the patents listed in the Orange Book have expired; (3) the listed patents have not expired, but will expire on a particular date and approval is sought after patent expiration; or (4) the listed patents are invalid or will not be infringed by the manufacture, use or sale of the third party's generic drug. A certification that the new drug will not infringe the Orange Book-listed patents for the applicable approved drug candidate, or that such patents are invalid, is called a paragraph IV certification. If the third party submits a paragraph IV certification to the FDA, a notice of the paragraph IV certification must also be sent to us once the third party's ANDA is accepted for filing by the FDA. We may then initiate a lawsuit to defend the patents identified in the notice. The filing of a patent infringement lawsuit within 45 days of receipt of the notice automatically prevents the FDA from approving the third party's ANDA until the earliest of 30 months or the date on which the patent expires, the lawsuit is settled, or the court reaches a decision in the infringement lawsuit in favor of the third party. If we do not file a patent infringement lawsuit within the required 45-day period, the third party's ANDA will not be subject to the 30-month stay of FDA approval. Litigation or other proceedings to enforce or defend intellectual property rights are often very complex in nature, may be very expensive and time-consuming, may divert our management's attention from our core business, and may result in unfavorable results that could limit our ability to prevent third parties from competing with our product candidates.

If we do not obtain protection under the Hatch-Waxman Amendments by extending the patent term for our product candidates, our business may be materially harmed.

Our commercial success will largely depend on our ability to obtain and maintain patent and other intellectual property in the United States and other countries with respect to our proprietary technology, product candidates and our target indications. Our issued U.S. patents, with claims directed to roflumilast formulations with reduced crystal growth, encompassing roflumilast cream, are currently projected to expire on June 7, 2037. Certain issued U.S. patents that we have licensed from Hengrui relating to, among other things, treatment of several diseases or disorders, including various cancers, allograft rejection, graft versus host disease, rheumatoid arthritis, atopic dermatitis, and psoriasis with SHR0302, or bisulfate and crystal forms thereof, are currently projected to expire beginning in 2033. Given the amount of time required for the development, testing and regulatory review of new product candidates, patents protecting our product candidates might expire before or shortly after such candidates begin to be commercialized. We expect to seek extensions of patent terms in the United States and, if available, in other countries where we are prosecuting patents.

Depending upon the timing, duration and specifics of FDA marketing approval of our product candidates, one or more of the U.S. patents covering our product candidates may be eligible for limited patent term restoration under the Drug Price Competition and Patent Term Restoration Act of 1984, referred to as the Hatch-Waxman Amendments. The Hatch-Waxman Amendments permit a patent restoration term of up to five years beyond the normal expiration of the patent as compensation for patent term lost during development and the FDA regulatory review process, which is limited to the approved indication (or any additional indications approved during the period of extension). This extension is limited to only one patent that covers the approved product. However, the applicable authorities, including the FDA and the USPTO in the United States, and any equivalent regulatory authority in other countries, may not agree with our assessment of whether such extensions are available, and may refuse to grant extensions to our patents, or may grant more limited extensions than we request. We may not be granted an extension because of, for example, failing to apply within applicable deadlines, failing to apply prior to expiration of relevant patents or otherwise failing to satisfy applicable requirements. Moreover, the applicable time period or the scope of patent protection afforded could be less than we request.

If we are unable to extend the expiration date of our existing patents or obtain new patents with longer expiry dates, our competitors may be able to take advantage of our investment in development and clinical trials by referencing our clinical and preclinical data to obtain approval of competing products following our patent expiration and launch their product earlier than might otherwise be the case.

Our intellectual property agreements with third parties may be subject to disagreements over contract interpretation, which could narrow the scope of our rights to the relevant intellectual property or technology or increase our financial or other obligations to our licensors.

Certain provisions in our intellectual property agreements may be susceptible to multiple interpretations. The resolution of any contract interpretation disagreement that may arise could affect the scope of our rights to the relevant intellectual property or technology, or affect financial or other obligations under the relevant agreement, either of which could have a material adverse effect on our business, financial condition, results of operations and prospects.

We may need to license additional intellectual property from third parties, and such licenses may not be available or may not be available on commercially reasonable terms.

Additional third parties, apart from our current licensors, may hold intellectual property, including patent rights, that are important or necessary to the development of our product candidates. It may be necessary for us to use the patented or proprietary technology of these third parties to commercialize our product candidates, in which case we would be required to obtain a license from these third parties on commercially reasonable terms. Such a license may not be available, or it may not be available on commercially reasonable terms, in which case our business would be harmed. The risks described elsewhere pertaining to our intellectual property rights also apply to the intellectual property rights that we in-license, and any failure by us or our licensors to obtain, maintain, defend and enforce these rights could harm our business. In some cases we may not have control over the prosecution, maintenance or enforcement of the patents that we license, and may not have sufficient ability to provide input into the patent prosecution, maintenance and defense process with respect to such patents, and our licensors may fail to take the steps that we believe are necessary or desirable in order to obtain, maintain, defend and enforce the licensed patents.

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

Filing, prosecuting and defending patents on product candidates, including all of the licensed rights under our exclusive supply and license agreements with AstraZeneca and Hengrui, in all countries throughout the world would be prohibitively expensive, and our intellectual property rights in some countries outside the United States can be less extensive than those in the United States. 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 United States. Consequently, we may not be able to prevent third parties from practicing our inventions in all countries outside the United States, or from selling or importing products made using our inventions in and into the United States 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 is not as strong as that in the United States. 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.

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 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. 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 develop or license.

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

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

The United States Supreme Court has ruled on several patent cases in recent years, either narrowing the scope of patent protection available in certain circumstances or weakening 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. Depending on actions by the United States Congress, the federal courts and the USPTO, the laws and regulations governing patents could change in unpredictable ways that would weaken our ability to obtain new patents or to enforce patents that we have licensed or that we might obtain in the future. Similarly, changes in patent law and regulations in other countries or jurisdictions or changes in the governmental bodies that enforce them or changes in how the relevant governmental authority enforces patent laws or regulations may weaken our ability to obtain new patents or to enforce patents that we have licensed or that we may obtain in the future. We cannot predict future changes in the interpretation of patent laws or changes to patent laws that might be enacted into law by United States and foreign legislative bodies. Those changes may materially affect our patents or patent applications and our ability to obtain additional patent protection in the future.

The United States federal government retains certain rights in inventions produced with its financial assistance under the Bayh-Dole Act. The federal government retains a “nonexclusive, nontransferable, irrevocable, paid-up license” for its own benefit. The Bayh-Dole Act also provides federal agencies with “march-in rights.” March-in rights allow the government, in specified circumstances, to require the contractor or successors in title to the patent to grant a “nonexclusive, partially exclusive, or exclusive license” to a “responsible applicant or applicants.” If the patent owner refuses to do so, the government may grant the license itself. Having a mandatory non-exclusive license grant may diminish the value of our patents as well as making it more difficult to protect our products.

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

Periodic maintenance fees on any issued patent are due to be paid to the USPTO and other foreign patent agencies in several stages over the lifetime of the patent. The USPTO and various foreign national or international patent agencies require compliance with a number of procedural, documentary, fee payment and other similar provisions during the patent application process. While an inadvertent lapse can in many cases be cured by payment of a late fee or by other means in accordance with the applicable rules, there are 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. Noncompliance events that could result in abandonment or lapse of patent rights include, but are not limited to, failure to timely file national and regional stage patent applications based on our international patent application, failure to respond to official actions within prescribed time limits, non-payment of fees and failure to properly legalize and submit formal documents. If we or our licensors fail to maintain the patents and patent applications covering any of our product candidates, our competitors might be able to enter the market earlier than anticipated, which would harm our business.

If our trademarks and trade names are not adequately protected, then we may not be able to build name recognition in our markets of interest and our business may be adversely affected.

Our registered or unregistered trademarks or trade names may be challenged, infringed, circumvented, declared generic or conflict with third-party rights. We may not be able to protect our rights to these trademarks and trade names, which we need to build name recognition by potential partners or customers in our markets of interest. In addition, third parties may file first for our trademarks in certain countries. If they succeeded in registering such trademarks, and if we were not successful in challenging such third-party rights, we may not be able to use these trademarks to market our products in those countries. In such cases, over the long term, if we are unable to establish name recognition based on our trademarks and trade names, then our marketing abilities may be impacted.

We have not yet registered trademarks for a commercial trade name for our lead candidates in the United States or foreign jurisdictions and failure to secure such registrations could adversely affect our business.

We have not yet registered trademarks for a commercial trade name for our lead product candidates in the United States or any foreign jurisdiction. During trademark registration proceedings, we may receive rejections. Although we are given an opportunity to respond to those rejections, we may be unable to overcome such rejections. In addition, in the USPTO and in comparable agencies in many foreign jurisdictions, third parties are given an opportunity to oppose pending trademark applications and to seek to cancel registered trademarks. Opposition or cancellation proceedings may be filed against our trademarks, and our trademarks may not survive such proceedings. Moreover, any name we propose to use with our product candidates in the United States must be approved by the FDA, regardless of whether we have registered it, or applied to register it, as a trademark. The FDA typically conducts a review of proposed product names, including an evaluation of potential for confusion with other product names. If the FDA objects to any of our proposed proprietary product names, we may be required to expend significant additional resources in an effort to identify a suitable substitute name that would qualify under applicable trademark laws, not infringe the existing rights of third parties and be acceptable to the FDA.

If we are unable to protect the confidentiality of our proprietary information and know-how, the value of our technology and products could be adversely affected.

We may not be able to protect our proprietary information and technology adequately. Although we use reasonable efforts to protect our proprietary information, technology, and know-how, our employees, consultants, contractors, outside scientific advisors, licensors or licensees may unintentionally or willfully disclose our information to competitors. Enforcing a claim that a third party illegally obtained and is using any of our proprietary information, technology or know-how is expensive and time consuming, and the outcome is unpredictable. In addition, courts outside the United States are sometimes less willing to protect proprietary information, technology, and know-how. We rely, in part, on non-disclosure and confidentiality agreements with our employees, consultants and other parties to protect our proprietary information, technology, and know-how. These agreements may be breached and we may not have adequate remedies for any breach. Moreover, others may independently develop similar or equivalent proprietary information, and third parties may otherwise gain access to our proprietary knowledge.

If we fail to comply with our obligations under any license, collaboration or other agreements, we may be required to pay damages and could lose intellectual property rights that are necessary for developing and protecting our product candidates.

We have licensed or acquired certain intellectual property rights covering our current product candidates from third parties, including AstraZeneca and Hengrui. We are heavily dependent on our agreements with such third parties for our current product candidates. If, for any reason, one or more of our agreements with such third parties is terminated or we otherwise lose those rights, it could harm our business. Our license and other agreements impose, and any future collaboration agreements or license agreements we enter into are likely to impose various development, commercialization, funding, milestone, royalty, diligence, sublicensing, insurance, patent prosecution and enforcement or other obligations on us. If we breach any such material obligations, or use the intellectual property licensed to us in an unauthorized manner, we may be required to pay damages and the licensor may have the right to terminate the license, which could result in us being unable to develop, manufacture and sell products that are covered by the licensed technology, or having to negotiate new or reinstated licenses on less favorable terms, or enable a competitor to gain access to the licensed technology.

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.

Competitors may infringe our intellectual property, including our patents or the patents of our licensors. As a result, we may be required to file infringement claims or inform and cooperate with our licensors to stop third-party infringement or unauthorized use. This can be expensive, particularly for a company of our size, and time-consuming. In addition, in an infringement proceeding, a court may decide that a patent of ours is not valid or is unenforceable, or may refuse to stop the other party from using the technology at issue on the grounds that our patent claims do not cover its technology or that the factors necessary to grant an injunction against an infringer are not satisfied. An adverse determination of any litigation or other proceedings could put one or more of our patents at risk of being invalidated, interpreted narrowly or amended such that they do not cover our product candidates. Moreover, such adverse determinations could put our patent applications at risk of not issuing, or issuing with limited and potentially inadequate scope to cover our product candidates or to prevent others from marketing similar products.

Interference, derivation or other proceedings brought at the USPTO may be necessary to determine the priority or patentability of inventions with respect to our patent applications or those of our licensors or potential partners. Litigation or USPTO proceedings brought by us may fail or may be invoked against us by third parties. Even if we are successful, domestic or foreign litigation or USPTO or foreign patent office proceedings may result in substantial costs. We may not be able, alone or with our licensors or potential partners, to prevent misappropriation of our proprietary rights, particularly in countries where the laws may not protect such rights as fully as in the United States.

Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation or other proceedings, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation or other proceedings. In addition, during the course of this kind of litigation or 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.

Third-party claims or litigation alleging infringement of patents or other proprietary rights, or seeking to invalidate patents or other proprietary rights, may delay or prevent the development and commercialization of any of our product candidates.

Our commercial success depends in part on our and our licensors avoiding infringement and other violations of the patents and proprietary rights of third parties. However, our research, development and commercialization activities may be subject to claims that we infringe or otherwise violate patents or other intellectual property rights owned or controlled by third parties. There is a substantial amount of litigation, both within and outside the United States, involving patent and other intellectual property rights in the biotechnology and pharmaceutical industries, including patent infringement lawsuits, interferences, derivation and administrative law proceedings, inter partes review and post-grant review before the USPTO, as well as oppositions and similar processes in foreign jurisdictions. Numerous United States and foreign issued patents and pending patent applications, which are owned by third parties, exist in the fields in which we and our collaborators are developing product candidates. As the biotechnology and pharmaceutical industries expand and more patents are issued, and as we gain greater visibility and market exposure as a public company, the risk increases that our product candidates or other business activities may be subject to claims of infringement of the patent and other proprietary rights of third parties. Third parties may assert that we are infringing their patents or employing their proprietary technology without authorization.

There may be third-party patents or patent applications with claims to materials, formulations, methods of manufacture or methods for treatment related to the use or manufacture of our product candidates. Because patent applications can take many years to issue, there may be currently pending patent applications that may later result in issued patents that our product candidates may infringe. In addition, third parties may obtain patents in the future and claim that use of our technologies infringes upon these patents. If any third-party patents were held by a court of competent jurisdiction to cover the manufacturing process of any of our product candidates, any molecules formed during the manufacturing process or any final product itself, the holders of any such patents may be able to block our ability to commercialize such product candidate unless we obtained a license under the applicable patents, or until such patents expire. Similarly, if any third-party patent was to be held by a court of competent jurisdiction to cover aspects of our formulations, processes for manufacture or methods of use, including

combination therapy, the holders of any such patent may be able to block our ability to develop and commercialize the applicable product candidate unless we obtained a license or until such patent expires. In either case, such a license may not be available on commercially reasonable terms or at all. In addition, we may be subject to claims that we are infringing other intellectual property rights, such as trademarks or copyrights, or misappropriating the trade secrets of others, and to the extent that our employees, consultants or contractors use intellectual property or proprietary information owned by others in their work for us, disputes may arise as to the rights in related or resulting know-how and inventions.

Parties making claims against us may obtain injunctive or other equitable relief, which could effectively block our ability to further develop and commercialize one or more of our product candidates. Defense of these claims, regardless of their merit, would involve substantial litigation expense and would be a substantial diversion of employee resources from our business. In the event of a successful infringement or other intellectual property claim against us, we may have to pay substantial damages, including treble damages and attorneys' fees for willful infringement, obtain one or more licenses from third parties, pay royalties or redesign our affected products, which may be impossible or require substantial time and monetary expenditure. We cannot predict whether any such license would be available at all or whether it would be available on commercially reasonable terms. Furthermore, even in the absence of litigation, we may need to obtain licenses from third parties to advance our research or allow commercialization of our product candidates, and we have done so from time to time. We may fail to obtain any of these licenses at a reasonable cost or on reasonable terms, if at all. In that event, we would be unable to further develop and commercialize one or more of our product candidates, which could harm our business significantly. Claims that we have misappropriated the confidential information or trade secrets of third parties could have a similar negative impact on our business.

Some of our competitors may be able to sustain the costs of complex intellectual property litigation more effectively than we can because they have substantially greater resources. In addition, intellectual property litigation, regardless of its outcome, may cause negative publicity, adversely impact prospective customers, cause product shipment delays, or prohibit us from manufacturing, marketing or otherwise commercializing our products, services and technology. Any uncertainties resulting from the initiation and continuation of any litigation could adversely impact our ability to raise additional funds or otherwise harm our business, results of operation, financial condition or cash flows.

Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation. There could also be public announcements of the results of hearings, motions or other interim proceedings or developments, which could adversely impact the price of our common shares. If securities analysts or investors perceive these results to be negative, it could adversely impact the price of our common shares. The occurrence of any of these events may harm our business, results of operation, financial condition or cash flows.

We cannot provide any assurances that third-party patents do not exist which might be enforced against our drugs or product candidates, resulting in either an injunction prohibiting our sales, or, with respect to our sales, an obligation on our part to pay royalties or other forms of compensation to third parties.

Intellectual property litigation could cause us to spend substantial resources and distract our personnel from their normal responsibilities, and have a harmful effect on the success of our business.

Even if resolved in our favor, litigation or other legal proceedings relating to intellectual property claims may cause us to incur significant expenses, and could distract our technical and management personnel from their normal responsibilities. In addition, there could be public announcements of the results of hearings, motions or other interim proceedings or developments, and if securities analysts or investors perceive these results to be negative, it could adversely impact the price of our common shares. Such litigation or proceedings could substantially increase our operating losses and reduce the resources available for development activities or any future sales, marketing or distribution activities. We may not have sufficient financial or other resources to conduct such litigation or proceedings adequately. Some of our competitors may be able to sustain the costs of such litigation or proceedings more effectively than we can because of their greater financial resources. Accordingly, despite our efforts, we may not be able to prevent third parties from infringing upon or misappropriating our intellectual property. In addition, the uncertainties associated with litigation could compromise our ability to raise the funds necessary to continue our clinical trials and internal research programs, or in-license needed technology or other product candidates. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could

compromise our ability to compete in the marketplace, including compromising our ability to raise the funds necessary to continue our clinical trials, continue our research programs, license necessary technology from third parties, or enter into development collaborations that would help us commercialize our product candidates, if approved.

Risks Related to Government Regulation

Even if we receive regulatory approval of our product candidates, we will be subject to extensive and ongoing regulatory obligations and continued regulatory review, which may result in significant additional expense, and we may be subject to penalties if we fail to comply with regulatory requirements or experience unanticipated problems with our product candidates.

Any regulatory approvals or other marketing authorizations we obtain for our product candidates may be subject to limitations on the indicated uses for which the product may be marketed or the conditions of approval or marketing authorization, or contain requirements for potentially costly post-market testing and surveillance to monitor the safety and efficacy of the product candidate. The FDA may also require a REMS as a condition of approval of our drug product candidates, such as roflumilast cream, roflumilast foam, ARQ-252 and ARQ-255, which could include requirements for a medication guide, physician communication plans or additional elements to assure safe use, such as restricted distribution methods, patient registries and other risk minimization tools. In addition, if the FDA or a comparable foreign regulatory authority authorizes our product candidates for marketing, the manufacturing processes, labeling, packaging, distribution, adverse event reporting, storage, advertising, promotion, import, export and recordkeeping for our product candidates will be subject to extensive and ongoing regulatory requirements. These requirements include submissions of safety and other post-marketing information and reports, registration, as well as continued compliance with cGMPs and GCP requirements for any clinical trials that we conduct post-approval. Later discovery of previously unknown problems with our product candidates, including adverse events of unanticipated severity or frequency, or with our third-party manufacturers or manufacturing processes, or failure to comply with regulatory requirements, may result in, among other things:

- restrictions on the marketing or manufacturing of our product candidates, withdrawal of the product from the market, or voluntary or mandatory product recalls;
- fines, warning or untitled letters or holds on clinical trials;
- refusal by the FDA to accept new marketing applications or supplements, approve or otherwise authorize for marketing pending applications or supplements to applications filed by us or suspension or revocation of approvals or other marketing authorizations;
- product seizure or detention, or refusal to permit the import or export of our product candidates; and
- injunctions or the imposition of civil or criminal penalties.

The FDA's and other regulatory authorities' policies may change, and additional government regulations may be enacted that could prevent, limit or delay regulatory approval of our product candidates. If we are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we are not able to maintain regulatory compliance, we may lose any marketing approval that we may have obtained and we may not achieve or sustain profitability, which would adversely affect our business, prospects, financial condition and results of operations.

In addition, we cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative or executive action, either in the United States or abroad. For example, certain policies of the current presidential administration may impact our business and industry. Namely, the current presidential administration has taken several executive actions, including the issuance of a number of Executive Orders, that could impose significant burdens on, or otherwise materially delay, the FDA's ability to engage in routine regulatory and oversight activities such as implementing statutes through rulemaking, issuance of guidance, and review and approval of marketing applications. It is difficult to predict how these requirements will be implemented, and the extent to which they will impact the FDA's ability to exercise its regulatory authority. If these executive actions impose constraints on the FDA's ability to engage in oversight and implementation activities in the normal course, our business may be negatively impacted.

Changes in funding for the FDA and other government agencies could hinder their ability to hire and retain key leadership and other personnel, or otherwise prevent new products and services from being developed or commercialized in a timely manner, 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 the payment of user fees, and statutory, regulatory, and policy changes. In addition, government funding of other government agencies that fund research and development activities is subject to the political process, which 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 harm our business. For example, over the last several years, including for 35 days beginning on December 22, 2018, the U.S. government has shut down several times and certain regulatory agencies, such as the FDA, have had to furlough critical FDA 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 harm our business.

Our product candidates, if authorized for marketing, may cause or contribute to adverse medical events that we are required to report to the FDA, and if we fail to do so, we would be subject to sanctions that could harm our reputation, business, financial condition and results of operations. The discovery of serious safety issues with our product candidates, or a recall of our products either voluntarily or at the direction of the FDA or another governmental authority, if such products are marketed, could have a negative impact on us.

With respect to any of our product candidates in clinical testing or approved by FDA, we will be subject to the FDA's safety reporting requirements. The timing of our obligation to report is triggered by the date we become aware of the adverse event as well as the nature of the event. We may fail to report adverse events of which we become aware within the prescribed timeframe. We may also fail to recognize 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 the product. If we fail to comply with our reporting obligations, the FDA could take action, including warning letters, untitled letters, administrative actions, criminal prosecution, imposition of civil monetary penalties, revocation of our approval or delay in approval of future products.

We may choose to voluntarily recall a product if any material deficiency is found. A recall could occur as a result of an unacceptable risk to health, component failures, malfunctions, manufacturing defects, labeling or design deficiencies, packaging defects or other deficiencies or failures to comply with applicable regulations. Product defects or other errors may occur in the future. Recalls involving our product candidates, if and when they are approved or otherwise authorized for marketing, could be particularly harmful to our business, financial condition and results of operations.

We may be subject to healthcare laws and regulations relating to our business, and could face substantial penalties if we are determined not to have fully complied with such laws, which would have an adverse impact on our business.

Our business operations and current and future arrangements with investigators, healthcare professionals, consultants, third-party payors, customers and patients, may expose us to broadly applicable fraud and abuse and other healthcare laws and regulations. These laws may constrain the business or financial arrangements and relationships through which we conduct our operations, including how we research, market, sell and distribute any products for which we obtain marketing approval. Such laws include:

- the U.S. federal Anti-Kickback Statute, which prohibits, among other things, persons and entities from knowingly and willfully soliciting, offering, receiving or providing remuneration, directly or indirectly, in cash or in kind, to induce or reward, or in return for, either the referral of an individual for, or the purchase, order or recommendation of, any good or service, for which payment may be made under a U.S. healthcare program such as Medicare and Medicaid. A person or entity does not need to have actual knowledge of the U.S. federal Anti-Kickback Statute or specific intent to violate it in order to have committed a violation. In addition, the government may assert that a claim including items or services resulting from a violation of the U.S. federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the civil False Claims Act;

- U.S. federal civil and criminal false claims laws and civil monetary penalties laws, including the civil False Claims Act, which, among other things, impose criminal and civil penalties, including through civil whistleblower or qui tam actions, against individuals or entities for knowingly presenting, or causing to be presented, to the U.S. government, claims for payment or approval that are false or fraudulent, knowingly making, using or causing to be made or used, a false record or statement material to a false or fraudulent claim, or from knowingly making a false statement to avoid, decrease or conceal an obligation to pay money to the U.S. government;
- the U.S. Health Insurance Portability and Accountability Act of 1996, or HIPAA, which imposes criminal and civil liability for, among other things, knowingly and willfully executing, or attempting to execute, a scheme to defraud any healthcare benefit program, or knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false statement, in connection with the delivery of, or payment for, healthcare benefits, items or services. Similar to the U.S. federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation;
- HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009, or HITECH, and its implementing regulations, which also imposes obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of individually identifiable health information without appropriate authorization by covered entities subject to the rule, such as health plans, healthcare clearinghouses and healthcare providers as well as their business associates that perform certain services for or on their behalf involving the use or disclosure of individually identifiable health information;
- the U.S. Physician Payments Sunshine Act, which requires certain manufacturers of drugs, devices, biologics and medical supplies for which payment is available under Medicare, Medicaid or the Children's Health Insurance Program (with certain exceptions) to report annually to the government information related to payments or other "transfers of value" made to physicians (defined to include doctors, dentists, optometrists, podiatrists and chiropractors) and teaching hospitals, (as well as certain other healthcare professionals beginning in 2022) and requires applicable manufacturers and group purchasing organizations to report annually to the government ownership and investment interests held by the physicians described above and their immediate family members;
- state privacy laws and regulations, such as those of California, that impose restrictive requirements regulating the use and disclosure of health information and other personally identifiable information (for example, in June 2018, California enacted the California Consumer Privacy Act (which went into effect on January 1, 2020) that gives California residents expanded rights to access and delete their personal information, opt out of certain personal information sharing and receive detailed information about how their personal information is used, and provides for civil penalties for violations, as well as a private right of action for data breaches that is expected to increase data breach litigation; resulting in increased compliance costs and potential liability);
- the U.S. Foreign Corrupt Practices Act of 1977, as amended, which prohibits, among other things, U.S. companies and their employees and agents from authorizing, promising, offering, or providing, directly or indirectly, corrupt or improper payments or anything else of value to foreign government officials, employees of public international organizations and foreign government owned or affiliated entities, candidates for foreign political office, and foreign political parties or officials thereof;
- federal consumer protection and unfair competition laws, which broadly regulate marketplace activities and activities that potentially harm consumers; and
- analogous state and non-U.S. laws and regulations, such as state anti-kickback and false claims laws, which may apply to our business practices, including, but not limited to, research, distribution, sales and marketing arrangements and claims involving healthcare items or services reimbursed by non-governmental third-party payors, including private insurers; state laws that require pharmaceutical and device companies to comply with the industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the U.S. government, or otherwise restrict payments that may be made to healthcare providers and other potential referral sources; state laws and regulations that require manufacturers to report information related to payments and other transfers of value to physicians and other healthcare providers or marketing expenditures and pricing information; and state and non-U.S. laws governing the privacy and security of health information in some circumstances, many of which differ

from each other in significant ways and often are not preempted by HIPAA, thus complicating compliance efforts.

Efforts to ensure that our current and future business arrangements with third parties will comply with applicable healthcare laws and regulations will involve substantial costs. It is possible that governmental authorities may conclude that our business practices, including our consulting arrangements with and/or ownership interests by physicians and other healthcare providers, do not comply with current or future statutes, regulations, agency guidance or case law involving applicable healthcare laws. If our operations are found to be in violation of any of these or any other health regulatory laws that may apply to us, we may be subject to significant penalties, including the imposition of significant civil, criminal and administrative penalties, damages, monetary fines, disgorgement, individual imprisonment, possible exclusion from participation in Medicare, Medicaid and other U.S. healthcare programs, contractual damages, reputational harm, diminished profits and future earnings, and curtailment or restructuring 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. If any of the above occur, it could adversely affect our ability to operate our business and our results of operations.

We have conducted and may in the future conduct clinical trials for our product candidates outside the United States and the FDA and applicable foreign regulatory authorities may not accept data from such trials.

We have conducted and may in the future choose to conduct one or more of our clinical trials outside the United States, including in Canada and Europe. Although the FDA or applicable foreign regulatory authority may accept data from clinical trials conducted outside the United States or the applicable jurisdiction, acceptance of such study data by the FDA or applicable foreign regulatory authority may be subject to certain conditions. Where data from foreign clinical trials are intended to serve as the basis for marketing approval in the United States, the FDA will not approve the application on the basis of foreign data alone unless those data are applicable to the U.S. population and U.S. medical practice; the studies were performed by clinical investigators of recognized competence; and the data are considered valid without the need for an on-site inspection by the FDA or, if the FDA considers such an inspection to be necessary, the FDA is able to validate the data through an on-site inspection or other appropriate means. Many foreign regulatory authorities have similar requirements. In addition, such foreign studies would be subject to the applicable local laws of the foreign jurisdictions where the studies are conducted. There can be no assurance the FDA or applicable foreign regulatory authority will accept data from trials conducted outside of the United States or the applicable jurisdiction. If the FDA or applicable foreign regulatory authority does not accept such data, it would likely result in the need for additional trials, which would be costly and time-consuming and delay aspects of our business plan.

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

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

For example, in March 2010, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, collectively the Affordable Care Act, was enacted in the United States to broaden access to health insurance, reduce or constrain the growth of healthcare spending, enhance remedies against fraud and abuse, add new transparency requirements for healthcare and health insurance industries, impose new taxes and fees on the health industry and impose additional health policy reforms. The law has continued the downward pressure on the pricing of medical items and services, especially under the Medicare program, and increased the industry's regulatory burdens and operating costs. Among the provisions of the Affordable Care Act of importance to our potential product candidates are the following:

- an annual, nondeductible fee payable by any entity that manufactures or imports specified branded prescription drugs and biologic agents;

- an increase in the statutory minimum rebates a manufacturer must pay under the Medicaid Drug Rebate Program;
- 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;
- a new Medicare Part D coverage gap discount program, in which manufacturers must agree to offer 70% point-of-sale discounts off negotiated prices of applicable brand drugs to eligible beneficiaries during their coverage gap period, as a condition for the manufacturer's outpatient drugs to be covered under Medicare Part D;
- extension of manufacturers' Medicaid rebate liability to individuals enrolled in Medicaid managed care organizations;
- expansion of eligibility criteria for Medicaid programs in certain states;
- expansion of the entities eligible for discounts under the Public Health Service pharmaceutical pricing program;
- a new requirement to annually report drug samples that manufacturers and distributors provide to physicians;
- 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
- an independent payment advisory board that will submit recommendations to Congress to reduce Medicare spending if projected Medicare spending exceeds a specified growth rate.

Since its enactment, there have been judicial and Congressional challenges to certain aspects of the Affordable Care Act, and we expect there will be additional challenges and amendments to the Affordable Care Act in the future. The current presidential administration and U.S. Congress have sought and will likely continue to seek to modify, repeal, or otherwise invalidate all, or certain provisions of, the Affordable Care Act. For example, the Tax Cuts and Jobs Act of 2017, or TCJA, was enacted, which includes a provision that repealed, effective January 1, 2019, the tax-based shared responsibility payment imposed by the Affordable Care Act on certain individuals who fail to maintain qualifying health coverage for all or part of a year that is commonly referred to as the "individual mandate." On December 14, 2018, a U.S. District Court Judge in the Northern District of Texas ruled that the individual mandate is a critical and inseverable feature of the Affordable Care Act, and therefore, because it was repealed as part of the TCJA, the remaining provisions of the Affordable Care Act are invalid as well. While the Trump administration and CMS have both stated that the ruling will have no immediate effect, it is unclear how this decision, subsequent appeals, if any, and other efforts to repeal and replace the Affordable Care Act will impact the Affordable Care Act and our business. It is uncertain the extent to which any such changes may impact our business or financial condition.

In addition, other legislative changes have been proposed and adopted in the United States since the Affordable Care Act was enacted. These changes include the Budget Control Act of 2011, which, among other things, resulted in reductions to Medicare payments to providers of 2% per fiscal year and will remain in effect through 2029; the American Taxpayer Relief Act of 2012, which, among other things, further reduced Medicare payments to several types of providers and increased the statute of limitations period for the government to recover overpayments to providers from three to five years; and the Medicare Access and CHIP Reauthorization Act of 2015, which, among other things, ended the use of the sustainable growth rate formula and provides for a 0.5% update to physician payment rates for each calendar year through 2019, after which there will be a 0% annual update each year through 2025. More recently, there has been heightened governmental scrutiny over the manner in which manufacturers set prices for their marketed products, which has resulted in several Congressional inquiries and proposed bills designed to, among other things, bring more transparency to product pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for pharmaceutical products.

Individual states in the United States have also become increasingly aggressive in passing legislation and implementing regulations designed to control pharmaceutical product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing. In addition, regional healthcare authorities and individual hospitals are increasingly using bidding

procedures to determine what pharmaceutical products to purchase and which suppliers will be included in their prescription drug and other healthcare programs.

We expect that the Affordable Care Act, as well as other healthcare reform measures that may be adopted in the future, may result in more rigorous coverage criteria, new payment methodologies and in additional downward pressure on the price that we receive for any approved product. Any reduction in reimbursement from Medicare or other government programs may result in a similar reduction in payments from private payors. We cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative action, either in the United States or abroad. If we are slow or unable to adapt to new requirements or policies, or if we are not able to maintain regulatory compliance, our product candidates may lose any regulatory approval that may have been obtained and we may not achieve or sustain profitability, which would adversely affect our business.

If any of our product candidates are approved for marketing and we are found to have improperly promoted off-label uses, or if physicians misuse our products or use our products off-label, we may become subject to prohibitions on the sale or marketing of our products, product liability claims and significant fines, penalties and sanctions, and our brand and reputation could be harmed.

The FDA and other foreign regulatory authorities strictly regulate the marketing of and promotional claims that are made about drug products. In particular, a product may not be promoted for uses or indications that are not approved by the FDA or such other foreign regulatory authorities as reflected in the product's approved labeling. In addition, although we believe our product candidates may exhibit a lower risk of side effects or more favorable tolerability profile or better symptomatic improvement than other products for the indications we are studying, without head-to-head data, we will be unable to make comparative claims for our product candidates, if approved. If we receive regulatory approval for any of our products and are found to have promoted any of our products for off-label uses, we may become subject to significant liability, which would materially harm our business. Both federal and state governments have levied large civil and criminal fines against companies for alleged improper promotion and have enjoined several companies from engaging in off-label promotion. If we become the target of such an investigation or prosecution based on our marketing and promotional practices, we could face similar sanctions, which would materially harm our business. In addition, management's attention could be diverted from our business operations, significant legal expenses could be incurred, and our brand and reputation could be damaged. The FDA has also previously requested that companies enter into consent decrees or permanent injunctions under which specified promotional conduct is changed or curtailed. If we are deemed by the FDA to have engaged in the promotion of our products for off-label use, we could be subject to FDA regulatory or enforcement actions, including the issuance of an untitled letter, a warning letter, injunction, seizure, civil fine or criminal penalties. It is also possible that other federal, state or foreign enforcement authorities might take action if they determine our business activities constitute promotion of an off-label use, which could result in significant penalties, including criminal, civil or administrative penalties, damages, fines, disgorgement, exclusion from participation in government healthcare programs and the curtailment or restructuring of our operations.

We cannot, however, prevent a physician from using our product candidates in ways that fall outside the scope of the approved indications, as he or she may deem appropriate in his or her medical judgment. Physicians may also misuse our product candidates or use improper techniques, which may lead to adverse results, side effects or injury and, potentially, subsequent product liability claims. Furthermore, the use of our product candidates for indications other than those approved by the FDA and/or other regulatory authorities may not effectively treat such conditions, which could harm our brand and reputation among both physicians and patients.

Risks Related to Our Common Stock

The stock price of our common stock may be volatile or may decline.

The market price of our common stock may fluctuate significantly in response to numerous factors, many of which are beyond our control, including:

- limited daily trading volume resulting in the lack of a liquid market;
- the development status of our product candidates, including whether any of our product candidates receive regulatory approval;
- the performance of third parties on whom we rely for clinical trials, manufacturing, marketing, sales and distribution, including their ability to comply with regulatory requirements;

- regulatory, legal or political developments in the United States and foreign countries;
- the results of our clinical trials and preclinical studies;
- the clinical results of our competitors or potential competitors;
- the execution of our partnering and manufacturing arrangements;
- our execution of collaboration, co-promotion, licensing or other arrangements, and the timing of payments we may make or receive under these arrangements;
- variations in the level of expenses related to our preclinical and clinical development programs, including relating to the timing of invoices from, and other billing practices of, our CROs and clinical trial sites;
- variations in the level of expenses related to our commercialization activities, if any product candidates are approved;
- the success of, and fluctuations in, the commercial sales any product candidates approved for commercialization in the future;
- overall performance of the equity markets;
- changes in operating performance and stock market valuations of other pharmaceutical companies;
- market conditions or trends in our industry or the economy as a whole, including as a result of market volatility related to global health concerns and, in particular, the extreme volatility experienced during the ongoing COVID-19 pandemic;
- the public's response to press releases or other public announcements by us or third parties, including our filings with the SEC, and announcements relating to acquisitions, strategic transactions, licenses, joint ventures, capital commitments, intellectual property, litigation or other disputes impacting us or our business;
- developments with respect to intellectual property rights;
- our commencement of, or involvement in, litigation;
- FDA or foreign regulatory actions affecting us or our industry;
- changes in the structure of healthcare payment systems;
- the financial projections we may provide to the public, any changes in these projections or our failure to meet these projections;
- changes in financial estimates by any securities analysts who follow our common stock, our failure to meet these estimates or failure of those analysts to initiate or maintain coverage of our common stock;
- ratings downgrades by any securities analysts who follow our common stock;
- the development and sustainability of an active trading market for our common stock;
- the size of our market float;
- the expiration of market standoff or contractual lock-up agreements and future sales of our common stock by our officers, directors and significant stockholders;
- recruitment or departure of key personnel;
- changes in accounting principles;
- other events or factors, including those resulting from war, incidents of terrorism, natural disasters or responses to these events; and
- any other factors discussed in this Quarterly Report on Form 10-Q.

In addition, the stock markets have experienced extreme price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many pharmaceutical companies. Due to the COVID-19 outbreak, there has been significant stock market exchange volatility, including temporary trading halts. Stock prices of many pharmaceutical companies have fluctuated in a manner unrelated or disproportionate to the operating performance of those companies. In the past, stockholders have instituted securities class action litigation

following periods of market volatility. If we were involved in securities litigation, we could incur substantial costs and our resources and the attention of management could be diverted from our business.

An active, liquid and orderly market for our common stock may not develop.

Prior to our IPO, there had been no public market for shares of our common stock, and an active public market for our shares may not develop or be sustained. The lack of an active market may impair the ability to sell our shares at the time you wish to sell them or at a price that you consider reasonable. An inactive market may also impair our ability to raise capital by selling shares and may impair our ability to acquire other businesses, applications, or technologies using our shares as consideration.

If securities or industry analysts do not publish research or reports about our business, or if they issue an adverse or misleading opinion regarding our stock, our stock price and trading volume could decline.

The trading market for our common stock will be influenced by the research and reports that industry or securities analysts publish about us or our business. We only recently completed our IPO and just recently obtained research coverage by securities and industry analysts. If only a limited number of securities or industry analysts commence coverage of us or the few analysts that have initiated coverage, drop coverage, the trading price for our stock would be negatively impacted. If any of the analysts who cover us issue an adverse or misleading opinion regarding us, our business model, our intellectual property or our stock performance, or if our clinical trials and operating results fail to meet the expectations of analysts, our stock price would likely decline. If one or more of these analysts cease coverage of us or fail to publish reports on us regularly, we could lose visibility in the financial markets, which in turn could cause our stock price or trading volume to decline.

We qualify as an "emerging growth company" as defined in the JOBS Act and we have decided to avail ourselves of reduced disclosure requirements applicable to emerging growth companies, including delaying adopting new or revised accounting standards, which could make our common stock less attractive to investors.

We qualify as an "emerging growth company" as defined in the JOBS Act, and we intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies" including certain reduced financial statement reporting obligations, reduced disclosure obligations about our executive compensation arrangements, exemptions from the requirement that we solicit non-binding advisory votes on executive compensation or golden parachute arrangements and exemption from the auditor's attestation requirements of Section 404(b) of the Sarbanes-Oxley Act. We may take advantage of these reporting exemptions until we are no longer an "emerging growth company." We will remain an emerging growth company until the last day of our fiscal year following the fifth anniversary of the completion of the IPO. However, if certain events occur prior to the end of such five-year period, including if we become a "large accelerated filer," our annual gross revenues exceed $1.07 billion or we issue more than $1.0 billion of non-convertible debt in any three-year period, we will cease to be an emerging growth company prior to the end of such five-year period.

Under the JOBS Act, emerging growth companies can also delay adopting new or revised accounting standards until such time as those standards apply to private companies. We have elected to take advantage of the benefits of this extended transition period. Our financial statements may therefore not be comparable to those of companies that comply with such new or revised accounting standards. Until the date that we are no longer an "emerging growth company" or affirmatively and irrevocably opt out of the exemption provided by Section 7(a)(2)(B) of the Securities Act, upon issuance of a new or revised accounting standard that applies to our financial statements and that has a different effective date for public and private companies, we will disclose the date on which adoption is required for non-emerging growth companies and the date on which we will adopt the recently issued accounting standard.

Raising additional funds by issuing securities may cause dilution to existing shareholders, raising additional funds through debt financings may involve restrictive covenants, and raising funds through lending and licensing arrangements may restrict our operations or require us to relinquish proprietary rights.

We expect that significant additional capital will be needed in the future to continue our planned operations. Until such time, if ever, that we can generate substantial product revenue, we expect to finance our cash needs

through a combination of equity offerings, debt financings, strategic alliances and license and development agreements or other collaborations. To the extent that we raise additional capital by issuing equity securities, our existing shareholders' ownership may experience substantial dilution, and the terms of these securities may include liquidation or other preferences that could harm the rights of a common shareholder. Additionally, any agreements for future debt or preferred equity financings, if available, may involve 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 marketing, distribution or licensing arrangements with third parties, 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 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 product candidates that we would otherwise develop and market ourselves.

Our principal stockholders and management own a significant percentage of our stock and will be able to exert significant control over matters subject to stockholder approval.

As of June 30, 2020, our executive officers, directors, holders of 5% or more of our capital stock and their respective affiliates beneficially owned approximately 48% of our voting stock. Therefore, these stockholders will have the ability to influence us through this ownership position, including the ability to determine all matters requiring stockholder approval. For example, these stockholders may be able to control elections of directors, amendments of our organizational documents, or approval of any merger, sale of assets, or other major corporate transaction. This may prevent or discourage unsolicited acquisition proposals or offers for our common stock that you may feel are in your best interest as one of our stockholders.

Sales of a substantial number of shares of our common stock in the public market 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. These sales, or the perception in the market that the holders of a large number of shares intend to sell shares, could reduce the market price of our common stock. Moreover, holders of approximately 24.4 million shares of our common stock have rights, subject to certain conditions, to require us to file registration statements covering their shares or to include their shares in registration statements that we may file for ourselves or other stockholders. We have registered and intend to continue to register all shares of common stock that we may issue under our equity compensation plans. Once we register these shares, they can be freely sold in the public market upon issuance, subject to volume limitations applicable to affiliates.

We cannot predict what effect, if any, sales of our shares in the public market or the availability of shares for sale will have on the market price of our common stock. However, future sales of substantial amounts of our common stock in the public market, including shares issued upon exercise of our outstanding warrant or options, or the perception that such sales may occur, could adversely affect the market price of our common stock.

We also expect that significant additional capital may be needed in the future to continue our planned operations. To raise capital, we may sell common stock, convertible securities or other equity securities in one or more transactions at prices and in a manner we determine from time to time. To the extent that additional capital is raised through the sale and issuance of shares or other securities convertible into shares, our stockholders will be diluted. These sales, or the perception in the market that the holders of a large number of shares intend to sell shares, could reduce the market price of our common stock.

Our ability to utilize our net operating loss, or NOL, carryforwards and research and development income tax credit carryforwards may be limited.

As of December 31, 2019, we had NOL carryforwards available to reduce future taxable income, if any, for federal and California income tax purposes of $54.6 million and $55.1 million, respectively. If not utilized, California NOL carryforwards will expire beginning in 2036. Of the federal net operating losses, $3.5 million originated before the 2019 tax year and will expire beginning in 2036. Under the Tax Act, the remaining $51.0 million of federal NOL carryforwards generated after December 31, 2017 will carryforward indefinitely with utilization limited to 80% of taxable income. As of December 31, 2019, we had federal and California research and development tax credit carryforwards of $2.0 million and $0.7 million, respectively. If not utilized, the federal research and development tax

credit carryforwards will begin to expire in 2037. The California research and development tax credit carryforwards are available indefinitely.

Under Section 382 and 383 of the Internal Revenue Code of 1986, as amended, if a corporation undergoes an "ownership change," generally defined as a greater than 50% change (by value) in its equity ownership by certain stockholders over a three year period, the corporation's ability to use its pre-change NOL carryforwards and other pre-change tax attributes (such as research tax credits) to offset its post-change income or taxes may be limited. A formal study has not been completed to determine if a change in ownership, as defined by Section 382, has occurred. We believe that we may undergo an "ownership change" limitation as a result of our IPO (some of which shifts are outside of our control). We may also experience additional ownership changes in the future as a result of subsequent shifts in our stock ownership. As a result, if we earn net taxable income, our ability to use our pre-change NOL carryforwards to offset U.S. federal taxable income may be subject to limitations, which could potentially result in increased future tax liability to us. In addition, at the state level, there may be periods during which the use of NOL carryforwards is suspended or otherwise limited, which could accelerate or permanently increase state taxes owed.

Provisions in our corporate charter documents and under Delaware law may prevent or frustrate attempts by our stockholders to change our management and hinder efforts to acquire a controlling interest in us, and the market price of our common stock may be lower as a result.

Our restated certificate of incorporation and restated bylaws contain provisions that could delay or prevent changes in control or changes in our management without the consent of our board of directors. These provisions include the following:

- a classified board of directors with three year staggered terms, which may delay the ability of stockholders to change the membership of a majority of our board of directors;
- no cumulative voting in the election of directors, which limits the ability of minority stockholders to elect director candidates;
- the exclusive right of our board of directors to elect a director to fill a vacancy created by the expansion of the board of directors or the resignation, death or removal of a director, which prevents stockholders from being able to fill vacancies on our board of directors;
- the ability of our board of directors to authorize the issuance of shares of preferred stock and to determine the price and other terms of those shares, including preferences and voting rights, without stockholder approval, which could be used to significantly dilute the ownership of a hostile acquiror;
- the ability of our board of directors to alter our bylaws without obtaining stockholder approval;
- the required approval of a super-majority of the shares entitled to vote at an election of directors to adopt, amend or repeal our bylaws or repeal the provisions of our restated certificate of incorporation regarding the election and removal of directors;
- a prohibition on stockholder action by written consent, which forces stockholder action to be taken at an annual or special meeting of our stockholders;
- the requirement that a special meeting of stockholders may be called only by the chief executive officer or the president or the board of directors, which may delay the ability of our stockholders to force consideration of a proposal or to take action, including the removal of directors; and
- advance notice procedures that stockholders must comply with in order to nominate candidates to our board of directors or to propose matters to be acted upon at a stockholders' meeting, which may discourage or deter a potential acquiror from conducting a solicitation of proxies to elect the acquiror's own slate of directors or otherwise attempting to obtain control of us.

In addition, these provisions would apply even if we were to receive an offer that some stockholders may consider beneficial.

We are also subject to the anti-takeover provisions contained in Section 203 of the Delaware General Corporation Law. Under Section 203, a corporation may not, in general, engage in a business combination with any holder of 15% or more of its capital stock unless the holder has held the stock for three years or, among other exceptions, the board of directors has approved the transaction.

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 restated certificate of incorporation 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 restated bylaws to be effective immediately prior to the completion of our IPO 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 will not be obligated pursuant to our 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 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 restated bylaw provisions to reduce our indemnification obligations to directors, officers, employees and agents.

Our restated certificate of incorporation provides that the Court of Chancery of the State of Delaware will be the exclusive forum for substantially all disputes between us and our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers or employees.

Our restated certificate of incorporation, to the fullest extent permitted by law, provides that the Court of Chancery of the State of Delaware will be the exclusive forum for: any derivative action or proceeding brought on our behalf; any action asserting a breach of fiduciary duty; any action asserting a claim against us arising pursuant to the Delaware General Corporation Law, or the DGCL, our restated certificate of incorporation, or our restated bylaws; or any action asserting a claim against us that is governed by the internal affairs doctrine. This exclusive forum provision does not apply to suits brought to enforce a duty or liability created by the Exchange Act. It could apply, however, to a suit that falls within one or more of the categories enumerated in the exclusive forum provision and asserts claims under the Securities Act, inasmuch as Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act or the rule and regulations thereunder. There is uncertainty as to whether a court would enforce such provision with respect to claims under the Securities Act, and our stockholders will not be deemed to have waived our compliance with the federal securities laws and the rules and regulations thereunder.

This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, or other employees, which may discourage lawsuits with respect to such claims. Alternatively, if a court were to find the choice of forum provisions contained in our restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our business, results of operations and financial condition.

We do not currently intend to pay dividends on our common stock, and, consequently, your ability to achieve a return on your investment will depend on appreciation in the price of our common stock.

We do not currently intend to pay any cash dividends on our common stock for the foreseeable future. We currently intend to invest our future earnings, if any, to fund our growth. Therefore, you are not likely to receive any dividends on your common stock for the foreseeable future. Since we do not intend to pay dividends, your ability to receive a return on your investment will depend on any future appreciation in the market value of our common stock. There is no guarantee that our common stock will appreciate or even maintain the price at which our holders have purchased it.

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

None.

Use of Proceeds

On January 30, 2020, the U.S. Securities and Exchange Commission declared effective our registration statement on Form S-1 (File No. 333-235806), as amended, filed in connection with our IPO. Pursuant to our IPO, we issued and sold 10,781,250 shares of common stock at a public offering price of $17.00 per share, including 1,406,250 shares sold pursuant to the underwriters' full exercise of their option to purchase additional shares. The aggregate net proceeds received by the Company from the IPO were approximately $167.2 million, after deducting underwriting discounts, commissions and offering related transaction costs.

Goldman Sachs & Co. LLC and Cowen and Company, LLC acted as representatives of the underwriters for the IPO. There has been no material change in the planned use of proceeds from our IPO from that described in the related prospectus dated January 30, 2020, filed with the SEC pursuant to Rule 424(b)(4) under the Securities Act of 1933, as amended.

Issuer Purchases of Equity Securities

We did not repurchase any of our equity securities during the three months ended June 30, 2020.

Item 3. DEFAULTS UPON SENIOR SECURITIES

None.

Item 4. MINE SAFETY DISCLOSURES

None.

Item 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

Exhibit Number	Description of Document	Incorporated by Reference Form	Date	Number	Filed/Furnished Herewith
3.1	Restated Certificate of Incorporation.	10-Q	5/12/20	3.1	
3.2	Restated Bylaws.	10-Q	5/12/20	3.2	
4.1	Form of Common Stock Certificate.	S-1/A	1/21/20	4.1	
4.2†	Amended and Restated Investors' Rights Agreement, dated October 8, 2019, by and among the Registrant and certain of its stockholders.	S-1/A	1/21/20	4.2	
4.3	Description of Arcutis Biotherapeutics' Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934.	10-K	3/19/20	4.3	
10.25	Office Lease Agreement, dated January 31, 2019, by and between the Registrant and Westlake Park Place, Inc.				X
10.26	First Amendment to Office Lease Agreement, dated April 22, 2020, by and between Registrant and Westlake Park Place, Inc.				X

31.1	Certification of Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities and Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	
31.2	Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities and Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	X
32.1*	Certification of Principal Executive Officer and Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.	X
101.INS	XBRL Instance Document - The instance document does not appear in the interactive data file because its XBRL tags are embedded within the inline XBRL document.	X
101.SCH	XBRL Taxonomy Extension Schema Document.	X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.	X
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.	X
101.LAB	XBRL Taxonomy Extension Label Linkbase Document.	X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.	X
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).	X

† Registrant has omitted portions of the exhibit as permitted under Item 601(b)(10) of Regulation S-K.

* The certifications attached as Exhibit 32.1 that accompany this Quarterly Report on Form 10-Q are not deemed filed with the Securities and Exchange Commission and are not to be incorporated by reference into any filing of Arcutis Biopharmaceuticals, 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 Form 10-Q, irrespective of any general incorporation language contained in such filing.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this Quarterly Report on Form 10-Q to be signed on its behalf by the undersigned, thereunto duly authorized.

ARCUTIS BIOTHERAPEUTICS, INC.

Date: August 11, 2020

By: /s/ John W. Smither

John W. Smither
Chief Financial Officer
(Principal Financial and Accounting Officer)

OFFICE LEASE AGREEMENT

BETWEEN

WESTLAKE PARK PLACE, INC.,

AS LANDLORD

AND

ARCUTIS, INC.,

AS TENANT

DATED

January 31 , 2019

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OFFICE LEASE AGREEMENT

This Office Lease Agreement (this "**Lease**") is entered into as of __January 31__, 2019, by and between the Landlord and the Tenant hereinafter named.

BASIC LEASE INFORMATION

Landlord:	WESTLAKE PARK PLACE, INC., a Delaware corporation
Tenant:	ARCUTIS, INC., a Delaware corporation
Premises:	Suite No. 110, containing 4,741 rentable square feet, in the building located at 2945 Townsgate Road, Thousand Oaks, California (the "**Building**"). The Building is located in the complex commonly known as "Westlake Park Place East" and located at 2915, 2931, 2945, 3011, and 3027 Townsgate Road, Thousand Oaks, California 91361 ("**Phase One**"). Phase One is part of a two-phase project, where the second phase is commonly known as "Westlake Park Place West" ("**Phase Two**"); Phase Two is currently owned by a third party unrelated to Landlord. The term "**Project**" shall collectively refer to Phase One and Phase Two together with the driveways, associated parking facilities, and similar improvements and easements associated with the foregoing or the operation thereof, including without limitation common areas associated therewith. The Premises are outlined on the plan attached to the Lease as Exhibit A. The land on which Phase One is located (the "**Phase One Land**") is described on Exhibit B-1, the land on which Phase Two is located (the "**Phase Two Land**") is described on Exhibit B-2, and the land on which the Project as a whole is located (the "**Land**") is described on Exhibit B-3.
Term:	Approximately thirty (30) months, commencing on the Commencement Date and ending at 5:00 p.m. local time on the last day of the 30th full calendar month following the Commencement Date, subject to adjustment and earlier termination as provided in the Lease.
Commencement Date:	The earliest of: (a) the date on which Tenant occupies any portion of the Premises and begins conducting business therein, which is anticipated to be March 1, 2019; (b) the date on which the Work (as defined in Exhibit D hereto) in the Premises is Substantially Completed (as defined in Exhibit D hereto); or (c) the date on which the Work in the Premises would have been Substantially Completed but for the occurrence of any Tenant Delay Days (as defined in Exhibit D hereto).
Base Rent:	Base Rent shall be the following amounts for the following periods of time:

Lease Month	Monthly Base Rent Rate Per Rentable Square Foot	Monthly Base Rent

1 - 12	$3.30	$15,645.30
13 - 24	$3.40	$16,119.40
25 - 30	$3.50	$16,593.50

As used herein, the term "**Lease Month**" shall mean each calendar month during the Term (and if the Commencement Date does not occur on the first (1st) day of a calendar month, the period from the Commencement Date to the first (1st) day of the next calendar month shall be included in the first (1st) Lease Month for purposes of determining the duration of the Term and the monthly Base Rent rate applicable for such partial month). Notwithstanding anything to the contrary set forth above, provided that Tenant is not then in default under this Lease beyond any applicable notice and cure periods set forth herein, Base Rent shall abate during the second (2nd) Lease Month of the Term.

Rent: Base Rent, Additional Rent, Taxes and Insurance (each as defined in Exhibit C hereto), and all other sums that Tenant may owe to Landlord or otherwise be required to pay under the Lease.

Security Deposit: $78,226.50, subject to the terms and conditions of Section 6 of the Lease.

Tenant Improvements: Landlord shall provide certain Tenant improvements as set forth in Exhibit D attached hereto.

Permitted Use: General office use consistent with the character of a first-class office building, and for no other purpose whatsoever.

Tenant's Proportionate Share: "**Tenant's Proportionate Share**" means, collectively, two (2) separate percentages (Tenant's Proportionate Share of the Building and Tenant's Proportionate Share of the Project), which shall be adjusted based on Tenant's Rentable Square Footage, as follows:

(i) "**Tenant's Proportionate Share of the Building**" shall be equal to 7.8408%, which is the percentage obtained by dividing (a) Tenant's Rentable Square Footage, by (b) the rentable square feet in the Building at the time a respective charge was incurred, which at the time of execution of this Lease is 60,466 rentable square feet. Landlord and Tenant stipulate that the number of rentable square feet in the Premises and in the Building set forth above is conclusive as to the square footage in existence on the date of this Lease and shall be binding upon them.

(ii) "**Tenant's Proportionate Share of the Project**" shall be equal to 1.0257%, which is the percentage obtained by dividing (a) Tenant's Rentable Square Footage, by (b) the rentable square feet in the Project at the time a respective charge was incurred, which at the time of execution of this Lease is 462,210 rentable square feet. Landlord and Tenant acknowledge and agree that the number of rentable square feet in the Project, and thus Tenant's Proportionate Share of the Project, will change as additional buildings are completed on Phase Two. Landlord shall provide Tenant with written notice of any such change, which shall become binding upon Tenant upon delivery thereof to Tenant and Tenant's Proportionate Share shall be adjusted retroactive to the date such rentable square footage was added to the Project.

As used in this Lease, "Tenant's Proportionate Share" shall be deemed to mean Tenant's Proportionate Share of the Building, with respect to those charges that pertain solely to the Building, and shall be deemed to mean Tenant's Proportionate Share of the Project with respect to those charges that pertain to the Project as a whole.

Initial Liability Insurance Amount:	$3,000,000	
Broker/Agent:	For Tenant: Cresa For Landlord: CBRE	
Tenant's Address:	Prior to Commencement Date: 70 Willow Road, Suite 200 Menlo Park, CA 94025 Attention: Frank Watanabe Telephone: 650-847-4115 x701 Email: tfw@arcutis.com	Following Commencement Date: The Premises Attention: Frank Watanabe Telephone: 805-418-5006 x701 Email: tfw@arcutis.com
Landlord's Address:	<u>For all Notices:</u> CBRE 24303 Town Center Drive, Suite 160 Valencia, California 91355 Attention: Westlake Property Manager Telephone: 661-255-0765 Telecopy: 661-255-9762	<u>With a copy to:</u> Westlake Park Place, Inc. c/o Invesco Real Estate 2001 Ross Avenue, Suite 3400 Dallas, Texas 75201 Attention: Westlake Asset Manager Telephone: 972-715-7400 Telecopy: 972-715-5811

The foregoing Basic Lease Information is incorporated into and made a part of this Lease. If any conflict exists between any Basic Lease Information and the following provisions of the Lease, then such following provisions of the Lease shall control.

LEASE PROVISIONS

1. **Definitions and Basic Provisions**. The definitions and basic provisions set forth in the foregoing Basic Lease Information (the "**Basic Lease Information**") are incorporated herein by reference for all purposes. Additionally, the following terms shall have the following meanings when used in this Lease: "**Affiliate**" means any person or entity which, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the party in question; "**Building's Structure**" means the Building's exterior walls, roof, elevator shafts (if any), footings, foundations, structural portions of load-bearing walls, structural floors and subfloors, and structural columns and beams; "**Building's Systems**" means the Premises' and Building's HVAC, life-safety, plumbing, electrical, and mechanical systems; "**Business Day(s)**" means Monday through Friday of each week, exclusive of Holidays; "**Holidays**" means New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and any other nationally or regionally recognized holiday; "**including**" means including, without limitation; "**Laws**" means all federal, state, and local laws, ordinances, rules and regulations, all court orders, governmental directives, and governmental orders and all interpretations of the foregoing, and all restrictive covenants affecting the Project, and "**Law**" shall mean any of the foregoing; "**Normal Business Hours**" means 8:00 a.m. to 6:00p.m. on Business Days and 9:00 a.m. to 1:00 p.m. on Saturdays, exclusive of Holidays; "**Tenant's Off-Premises Equipment**" means any of Tenant's equipment or other property that may be located on or about the Project (other than inside the Premises); and "**Tenant Party**" means any of the following persons: Tenant; any assignees claiming by, through, or under Tenant; any subtenants claiming by, through, or under Tenant; and any of their respective agents, contractors, and employees.

2. **Lease Grant**. Subject to the terms of this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, the Premises (as defined in the Basic Lease Information).

3. **Tender of Possession.**

(a) **Estimated Delivery Date; Delay in Delivery**. Landlord and Tenant presently anticipate that possession of the Premises will be tendered to Tenant in the condition required by this Lease on or about March 1, 2019 (the "**Estimated Delivery Date**"). If Landlord is unable to tender possession of the Premises in such condition to Tenant by the Estimated Delivery Date, then: (1) the validity of this Lease shall not be affected or impaired thereby; (2) Landlord shall not be in default hereunder; and (3) Tenant shall accept possession of the Premises when Landlord tenders possession thereof to Tenant; provided, however, if, except in connection with any Tenant Delay (defined below) or delay caused by Casualty, Taking, or other Force Majeure Event (defined in Section 26(c)), Landlord fails to tender possession of the Premises in the condition required hereunder to Tenant by the Estimated Delivery Date, then Tenant shall be entitled to liquidated damages equal to one (1) day of free Base Rent for each day beyond the Estimated Delivery Date until the date that Landlord delivers the Premises to Tenant in accordance with the terms of this Lease. If Landlord's Work is completed prior to the Estimated Delivery Date then Landlord shall cause the Delivery Date to occur upon such completion. Notwithstanding anything in this Lease to the contrary, if Landlord fails to deliver possession of the Premises in the condition required herein by the date which is ninety (90) days after the Estimated Delivery Date, except if such failure is due to a Tenant Delay or Force

Majeure Event, then Tenant, as its sole and exclusive remedy in addition to the Base Rent abatement provided above, shall have the right to terminate this Lease by written notice to Landlord given at any time thereafter but prior to delivery of the Premises to Tenant in the condition required herein and within thirty (30) days after such termination, Landlord shall refund to Tenant the Security Deposit, any prepaid Rent. By occupying the Premises, Tenant shall be deemed to have accepted the Premises in their condition as of the date of such occupancy, subject to the performance of punch-list items that remain to be performed by Landlord, if any. Occupancy of the Premises by Tenant prior to the Commencement Date shall be subject to all of the provisions of this Lease excepting only those requiring the payment of Rent.

(b) **Confirmation Letter**. Within ten (10) business days after occupying the Premises, Tenant shall execute and deliver to Landlord a letter substantially in the form of Exhibit F hereto confirming: (1) the Commencement Date (as defined in the Basic Lease Information) and the expiration date of the initial Term (as defined in the Basic Lease Information); (2) that Tenant has accepted the Premises; and (3) that Landlord has performed all of its obligations with respect to the Premises (except for punch-list items specified in such letter); however, the failure of the parties to execute such letter shall not defer the Commencement Date or otherwise invalidate this Lease. Tenant's failure to execute such document within ten (10) business days of receipt thereof from Landlord shall be deemed to constitute Tenant's agreement to the contents of such document. Occupancy of the Premises by Tenant prior to the Commencement Date shall be subject to all of the provisions of this Lease excepting only those requiring the payment of Rent.

(c) **Premises "AS-IS"**. Tenant acknowledges that: (i) it has been advised by Landlord, Landlord's broker and Tenant's broker, if any, to satisfy itself with respect to the condition of the Premises (including, without limitation, the Building's Systems located therein, and the security and environmental aspects thereof) and the present and future suitability of the Premises for Tenant's intended use; (ii) Tenant has made such inspection and investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to Tenant's occupancy of the Premises; and (iii) neither Landlord nor any of Landlord's agents has made any oral or written representations or warranties with respect to the condition, suitability or fitness of the Premises other than as may be specifically set forth in this Lease. By occupying the Premises, Tenant shall be deemed to have accepted the Premises in its then "AS IS" condition, subject to all applicable Laws, and subject to the performance of punch-list items that remain to be performed by Landlord, if any.

4. **Rent**. Tenant shall timely pay to Landlord Rent (as defined in the Basic Lease Information), including the amounts set forth in Exhibit C hereto, without notice, demand, deduction or set-off (except as otherwise expressly provided herein), by good and sufficient check drawn on a national banking association at Landlord's address provided for in this Lease or as otherwise specified by Landlord and shall be accompanied by all applicable state and local sales or use taxes. The obligations of Tenant to pay Base Rent (as defined in .the Basic Lease Information) and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations. Base Rent, adjusted as herein provided, shall be payable monthly in advance. The first (1st) monthly installment of Base Rent shall be payable contemporaneously with Tenant's execution of this Lease; thereafter, Base Rent shall be payable on the first (1st) day of each month beginning on the first (1st) day of the second (2nd) full calendar month of the Term. The monthly Base Rent for any partial month at the beginning of the Term shall equal the product of 1/365 (or in the event of a leap year, 1/366) of the annual Base Rent in effect during the partial month and the number of days in the partial month, and shall be due on the

Commencement Date. Payments of Base Rent for any fractional calendar month at the end of the Term shall be similarly prorated. Tenant shall pay Additional Rent, Taxes and Insurance (each as defined in Exhibit C) at the same time and in the same manner as Base Rent.

5. **Delinquent Payment; Handling Charges**. Any payments (other than late charges) required of Tenant hereunder shall bear interest from the date which is five (5) days after the date due until paid at the lesser of ten percent (10%) per annum or the maximum lawful rate of interest (such lesser amount is referred to herein as the "**Default Rate**"). Additionally, if Tenant fails to pay any installment of Rent within five (5) days after its due date, then Tenant shall pay to Landlord a late charge equal to five percent (5%) of such overdue amount; provided, however, that the late charge shall not be imposed upon Tenant without providing five days' prior written notice one (1) time in any twelve (12) month period. The parties agree that such late charge is intended to reimburse Landlord for its cost and inconvenience incurred as a consequence of Tenant's delinquency. Any such late charge and interest payment shall be payable as Additional Rent under this Lease, shall not be considered a waiver by Landlord of any default by Tenant hereunder, and shall be payable immediately on demand. In no event, however, shall the charges permitted under this Section 5 or elsewhere in this Lease, to the extent they are considered to be interest under applicable Law, exceed the maximum lawful rate of interest.

6. **Security Deposit**. Contemporaneously with Tenant's execution of this Lease, Tenant shall pay to Landlord the Security Deposit (as defined in the Basic Lease Information), which shall be held by Landlord to secure Tenant's performance of its obligations under this Lease. The Security Deposit is not an advance payment of Rent or a measure or limit of Landlord's damages upon an Event of Default (as defined in Section 17). Notwithstanding anything to the contrary contained herein, upon the first day after the expiration of the twelfth (12th) Lease Month of the Term (the "**Reduction Date**"), provided that Tenant is not then in default of this Lease and Landlord has not applied any portion of the Security Deposit in accordance herewith, the Security Deposit shall be reduced to $46,935.90, with any balance being held by Landlord in excess of such amount to be returned Tenant within thirty (30) days of the Reduction Date. Landlord may, at Landlord's discretion, from time to time following an Event of Default and without prejudice to any other remedy, use all or a part of the Security Deposit to perform any obligation Tenant fails to perform hereunder or in connection with Landlord's remedies under this Lease. Following any such application of the Security Deposit, Tenant shall pay to Landlord on demand the amount so applied in order to restore the Security Deposit to the amount then required to be held by Landlord pursuant hereto. Subject to the requirements of, and conditions imposed by, Laws applicable to security deposits under commercial leases, Landlord shall, within the time required by applicable Law, return to Tenant the portion of the Security Deposit remaining after deducting all damages, charges and other amounts permitted by Law. Landlord and Tenant agree that such deductions shall include, without limitation, all damages and losses that Landlord has suffered or that Landlord reasonably estimates that it will suffer as a result of any breach of this Lease by Tenant. Tenant hereby waives the protections of Section 1950.7(c) of the California Civil Code, as it may hereafter be amended, or similar laws of like import. Unless required otherwise by applicable Law, the Security Deposit may be commingled with other funds, and no interest shall be paid thereon. If Landlord transfers its interest in the Premises, Landlord may assign the Security Deposit to the transferee and, upon such transfer (and the delivery to Tenant of an acknowledgement of the transferee's responsibility for the Security Deposit if required by Law), Landlord thereafter shall have no further liability for the return of the Security Deposit.

7. **Services; Utilities; Common Areas**

(a) **Services**. Landlord shall use all reasonable efforts to furnish to Tenant: (i) water at those points of supply provided for general use of tenants of the Building and to the Premises; (ii) heated and refrigerated air conditioning as appropriate, at such temperatures and in such amounts as are required by governmental authority or as are standard for first class office buildings similar to the Building during Normal Business Hours; (iii) janitorial service to the Premises on weekdays, other than Holidays, for Building-standard installations and such window washing as may from time to time be reasonably required; (iv) elevators for ingress and egress to the floor on which the Premises are located, in common with other tenants, provided that Landlord may limit the number of operating elevators during non-business hours, during repairs, and Holidays; (v) replacement of Building-standard light bulbs and fluorescent tubes, provided that Landlord's standard charge for such bulbs and tubes shall be paid by Tenant; and (vi) electrical current for equipment whose electrical energy consumption does not exceed normal office usage. If Tenant desires any of the services specified in Section 7(a)(ii) at a time other than Normal Business Hours, then such services shall be supplied to Tenant upon the request of Tenant sent at least twenty-four (24) hours in advance (and, if less than twenty-four (24) hours' prior notice is given, Landlord shall use commercially reasonable efforts to supply such services if Tenant requests same by 3:00 P.M. local time on the last business day prior to the requested date), and Tenant shall pay to Landlord the cost of such after-hours HVAC service (which, as of the Effective Date is $35 per hour) within thirty (30) days after Landlord has delivered to Tenant an invoice therefor. The costs incurred by Landlord in providing HVAC service to Tenant at a time other than Normal Business Hours, shall include costs for electricity, water, sewage, water treatment, labor, metering, filtering, and maintenance reasonably allocated by Landlord to providing such service.

(b) **Excess Utility Use**. Landlord shall not be required to furnish electrical current for equipment whose electrical energy consumption exceeds normal office usage. If Tenant's requirements for or consumption of electricity exceed the electricity to be provided by Landlord as described in Section 7(a), Landlord shall, at Tenant's expense, make reasonable efforts to supply such service through the then-existing feeders and risers and electrical panels serving the Building and the Premises, and Tenant shall pay to Landlord the cost of such service within thirty (30) days after Landlord has delivered to Tenant an invoice therefor. Landlord may determine the amount of such additional consumption and potential consumption by any verifiable method, including installation of a separate meter in the Premises installed, maintained, and read by Landlord, at Tenant's expense. Tenant shall not install any electrical equipment requiring special wiring or requiring voltage in excess of 110 volts unless approved in advance by Landlord, which approval shall not be unreasonably withheld. Tenant shall not install any electrical equipment requiring voltage in excess of Building capacity unless approved in advance by Landlord, which approval may be withheld in Landlord's sole discretion. The use of electricity in the Premises shall not exceed the capacity of existing feeders and risers and electrical panels to or wiring in the Premises. Any risers or wiring required to meet Tenant's excess electrical requirements shall, upon Tenant's written request, be installed by Landlord, at Tenant's cost, if, in Landlord's judgment, the same are necessary and shall not cause permanent damage to the Building or the Premises, cause or create a dangerous or hazardous condition, entail excessive or unreasonable alterations, repairs, or expenses, or interfere with or disturb other tenants of the Building. If Tenant uses machines or equipment in the Premises which affect the temperature otherwise maintained by the air conditioning system or otherwise overload any utility, Landlord may install supplemental air conditioning units or other supplemental equipment in the Premises, and the cost thereof, including the cost of installation,

operation, use, and maintenance, shall be paid by Tenant to Landlord within thirty (30) days after Landlord has delivered to Tenant an invoice therefor. Landlord's obligation to furnish services under Section 7(a) shall be subject to the rules and regulations of the supplier of such services and governmental rules and regulations. Landlord may, upon not less than thirty (30) days' prior written notice to Tenant, discontinue any such service to the Premises, provided Landlord first arranges for a direct connection thereof through the supplier of such service. Tenant shall, however, be responsible for contracting with the supplier of such service and for paying all deposits for, and costs relating to, such service. Landlord shall use reasonable efforts to restore any service required of it that becomes unavailable; however, such unavailability shall not render Landlord liable for any damages caused thereby, be a constructive eviction of Tenant, constitute a breach of any implied warranty, or entitle Tenant to any abatement of Tenant's obligations hereunder.

(c) **Common Areas**. The term "**Common Area**" is defined for all purposes of this Lease as that part of Phase One or the Project intended for the common use of all tenants, including among other facilities (as such may be applicable to the Project), the ground floor lobby, elevator lobbies and hallways on multi-tenant floors, parking areas, private streets and alleys, landscaping, curbs, loading areas, sidewalks, malls and promenades (enclosed or otherwise), lighting facilities, drinking fountains, meeting rooms, public toilets, a parking garage (if ever constructed), and the like, but excluding: (i) space in buildings (now or hereafter existing) designated for rental for commercial purposes, as the same may exist from time to time; (ii) streets and alleys maintained by a public authority; (iii) areas within the Project which may from time to time not be owned by Landlord (unless subject to a cross-access agreement benefiting the area which includes the Premises); and (iv) areas leased to a single-purpose user where access is restricted. In addition, although the roof(s) of the building(s) in the Project is not literally part of the Common Area, it will be deemed to be so included for purposes of: (i)Landlord's ability to prescribe rules and regulations regarding same; and (ii) its inclusion for purposes of Operating Costs reimbursements. Landlord reserves the right to change from time to time the dimensions and location of the Common Area, as well as the dimensions, identities, locations and types of any buildings, signs or other improvements in the Project; provided and on the condition that such changes do not materially and adversely impact Tenant's (A) Permitted Use or (B) access to the Premises or the Common Area amenities, or reduce the amount of parking available to Tenant to below applicable Laws, without variance. For example, and without limiting the generality of the immediately preceding sentence, Landlord may from time to time substitute for any parking area other areas reasonably accessible to the tenants of Phase One or Project, as applicable, which areas may be elevated, surface or underground. Tenant, and its employees and customers, and when duly authorized pursuant to the provisions of this Lease, its subtenants, licensees and concessionaires, shall have the non- exclusive right to use the Common Area (excluding roof(s)) as constituted from time to time, such use to be in common with Landlord, other tenants in the Phase One and/or Project, as applicable, and other persons permitted by Landlord to use the same, and subject to rights of governmental authorities, easements, other restrictions of record (the "**Restrictions**"); provided, that the same do not materially increase Tenant's obligations or decrease Tenant's rights under this Lease, and such reasonable rules and regulations governing use as Landlord may from time to time prescribe. As used herein, the term "Restrictions" shall include all matters if record that encumber the Project at any time, including, without limitation, that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Westlake Park Place recorded in the real property records of Ventura County, California, as Instrument No. 00109053-0, as amended ("**CC&Rs**"). Landlord represents and warrants to Tenant that as of the date hereof, to Landlord's actual knowledge, the Permitted Use is not prohibited under any of

the terms and provisions of the Restrictions, including the CC&Rs. For example, and without limiting the generality of Landlord's ability to establish rules and regulations governing all aspects of the Common Area, Tenant agrees as follows:

(i) Tenant shall not solicit business within the Common Area nor take any action which would interfere with the rights of other persons to use the Common Area.

(ii) Landlord may temporarily close any part of the Common Area for such periods of time as may be reasonably necessary to make repairs or alterations or to prevent the public from obtaining prescriptive rights; provided, however, Landlord shall use commercially reasonable and diligent efforts to not completely block Tenant's access to the Premises.

(iii) With regard to the roof(s) of the building(s) in the Building or Project, as applicable, use of the roof(s) is reserved to Landlord, or with regard to any tenant demonstrating to Landlord's satisfaction a need to use same, to such tenant after receiving prior written consent from Landlord.

(d) **Parking**. Tenant may, but shall not have any obligation, to utilize up to four (4) unreserved parking spaces in Phase One per 1,000 rentable square feet in the Premises, for the parking of passenger automobiles, at no additional charge or cost. Tenant shall comply with the parking rules and regulations which are attached hereto as Exhibit K. Landlord may, from time to time, change such rules and regulations for the safety, care, or cleanliness of Phase One and related facilities, provided that such changes are commercially reasonable, are applicable to all tenants of Phase One, will not materially or unreasonably interfere with Tenant's use of or access to the Premises (or any parking areas or facilities), will not materially increase Tenant's obligations, liabilities or costs under this Lease, will not materially decrease Tenant's rights under this Lease, and are enforced by Landlord in a non- discriminatory manner. Tenant shall be responsible for the compliance with such rules and regulations by each Tenant Party.

8. **Alterations; Repairs; Maintenance; Signs**.

(a) **Alterations**. Tenant shall not make any alterations, additions or improvements to the Premises (collectively, the "**Alterations**") without the prior written consent of Landlord, which consent shall not be unreasonable withheld, conditioned or delayed, except for the installation of unattached, movable trade fixtures which may be installed without drilling, cutting or otherwise defacing the Premises. Tenant shall furnish complete plans and specifications to Landlord for its approval at the time Tenant requests Landlord's consent to any Alterations if the desired Alterations: (i) may affect the Building's Systems or Building's Structure; (ii) will require the filing of plans and specifications with any governmental or quasi- governmental agency or authority; (iii) will cost in excess of Five Thousand and 00/100 Dollars ($5,000.00); or (iv) will require a building permit or similar governmental approval to undertake. Subsequent to obtaining Landlord's consent and prior to commencement of the Alterations, Tenant shall deliver to Landlord any building permit required by applicable Law and a copy of the executed construction contract(s). Tenant shall reimburse Landlord within ten (10) days after the rendition of a bill for all of Landlord's reasonable out-of-pocket costs incurred in connection with any Alterations, including all management, engineering, outside consulting, and construction fees incurred by or on behalf of Landlord for the review and approval of Tenant's plans and specifications and for the monitoring of construction of the Alterations. If Landlord consents to the making of any Alteration, such Alteration shall be made by Tenant at Tenant's

sole cost and expense by a contractor approved in writing by Landlord. Tenant shall require its contractor to maintain insurance in such amounts and in such form as Landlord may require. Without Landlord's prior written consent, Tenant shall not use any portion of the Common Areas either within or without the Building or Project, as applicable, in connection with the making of any Alterations. If the Alterations which Tenant causes to be constructed result in Landlord being required to make any alterations and/or improvements to other portions of Phase One or Project, as applicable, in order to comply with any applicable Laws, then Tenant shall reimburse Landlord upon demand for all costs and expenses incurred by Landlord in making such alterations and/or improvements. Any Alterations made by Tenant shall become the property of Landlord upon installation and shall remain on and be surrendered with the Premises upon the expiration or sooner termination of this Lease, unless Landlord requires the removal of such Alterations, which required removal shall be communicated to Tenant in writing at the time Landlord approves such Alterations. If Landlord requires the removal of such Alterations, Tenant shall at its sole cost and expense, forthwith and with all due diligence (but in any event not later than ten (10) days after the expiration or earlier termination of the Lease) remove all or any portion of any Alterations made by Tenant which are designated by Landlord to be removed (including without limitation stairs, bank vaults, and cabling, if applicable) and repair and restore the Premises in a good and workmanlike manner to their original condition, reasonable wear and tear excepted. All construction work done by Tenant within the Premises shall be performed in a good and workmanlike manner with new materials of first-class quality, lien-free and in compliance with all Laws, and in such manner as to cause a minimum of interference with other construction in progress and with the transaction of business in Phase One or Project, as applicable. Tenant agrees to indemnify, defend and hold Landlord harmless against any loss, liability or damage resulting from such work and Tenant shall, if requested by Landlord in connection with Alterations in excess of Twenty Five Thousand Dollars ($25,000), furnish a bond or other security reasonably satisfactory to Landlord against any such loss, liability or damage. The foregoing indemnity shall survive the expiration or earlier termination of this Lease. Landlord's consent to or approval of any alterations, additions or improvements (or the plans therefor) shall not constitute a representation or warranty by Landlord, nor Landlord's acceptance, that the same comply with sound architectural and/or engineering practices or with all applicable Laws, and Tenant shall be solely responsible for ensuring all such compliance. All voice, data, video, audio and other low voltage control transport system cabling and/or cable bundles installed in the Building by Tenant or its contractor shall be (A) plenum rated and/or have a composition makeup suited for its environmental use in accordance with NFPA 70/National Electrical Code; (B) labeled every 3 meters with the Tenant's name and origination and destination points; (C) installed in accordance with all EIA/TIA standards and the National Electric Code; (D) installed and routed in accordance with a routing plan showing "as built" or "as installed" configurations of cable pathways, outlet identification numbers, locations of all wall, ceiling and floor penetrations, riser cable routing and conduit routing (if applicable), and such other information as Landlord may request. The routing plan shall be available to Landlord and its agents at the Building upon request.

(b) **Repairs; Maintenance**.

(i) **By Landlord**. Landlord shall, subject to reimbursement as set forth in Exhibit C, keep and maintain in good repair and working order and make repairs to and perform maintenance upon: (1) structural elements of the Building; (2) standard mechanical (including HVAC), electrical, plumbing and fire/life safety systems serving the Building generally; (3) Common Areas; (4) the roof of the Building; (5) exterior windows of the Building; and (6) elevators serving the Building. Landlord shall not be liable for any failure to make any such

repairs or to perform any maintenance unless such failure shall persist for an unreasonable time after written notice of the need of such repairs or maintenance is given to Landlord by Tenant. If any of the foregoing maintenance or repair is necessitated due to the acts or omissions of any Tenant Party, Tenant shall pay the costs of such repairs or maintenance to Landlord within thirty (30) days after receipt of an invoice, together with an administrative charge in an amount equal to fifteen percent (15%) of the cost of the repairs. Landlord shall not be liable to Tenant for any interruption of Tenant's business or inconvenience caused due to any work performed in the Premises or in the Project pursuant to Landlord's rights and obligations under the Lease; provided, however, except in connection with emergency related work, Landlord shall undertake commercially reasonable efforts to avoid interrupting Tenant's Permitted Use within the Premises, including, without limitation, performing unreasonably loud or disruptive work (such as saw cutting, core drilling, or other work causing unreasonably loud noise or vibrations affecting the Premises) to be done outside of Normal Business Hours. To the extent allowed by law, Tenant waives the right to make repairs at Landlord's expense under Sections 1941 and 1942 of the California Civil Code, and the right to terminate the Lease under Section 1932(1) of the California Civil Code, and any other laws, statutes or ordinances now or hereafter in effect of like import.

(ii) **By Tenant**. Tenant shall, at its sole cost and expense, promptly perform all maintenance and repairs to the Premises that are not Landlord's express responsibility under this Lease, and shall keep the Premises in good condition and repair, ordinary wear and tear excepted. Tenant's repair obligations include, without limitation, repairs to: (1) floor covering and/or raised flooring; (2) interior partitions; (3) doors; (4) the interior side of demising walls; (5) electronic, phone and data cabling and related equipment (collectively, "**Cable**") that is installed by or for the benefit of Tenant and located in the Premises or other portions of the Building or Project; (6) supplemental air conditioning units, private showers and kitchens, including hot water heaters, plumbing, dishwashers, ice machines and similar facilities serving Tenant exclusively; (7) phone rooms used exclusively by Tenant; (8) Alterations performed by contractors retained by or on behalf of Tenant, including related HVAC balancing; and (9) all of Tenant's furnishings, trade fixtures, equipment and inventory. All work shall be performed in accordance with the rules and procedures described in Section 8(a). If Tenant fails to make any repairs to the Premises for more than fifteen (15) days after notice from Landlord (although notice shall not be required if there is an emergency or if the area to be repaired is visible from the exterior of the Building), Landlord may, in addition to any other remedy available to Landlord, make the repairs, and Tenant shall pay the reasonable cost of the repairs to Landlord within thirty (30) days after receipt of an invoice, together with an administrative charge in an amount equal to fifteen percent (15%) of the cost of the repairs. At the expiration of this Lease, Tenant shall surrender the Premises in good condition, excepting reasonable wear and tear and losses required to be restored by Landlord. All personal property of Tenant, including goods, wares, merchandise, inventory, trade fixtures and other personal property of Tenant, shall be stored at the sole risk of Tenant. Landlord or its agents shall not be liable for any loss or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Project or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface or from any other places resulting from dampness or any other cause whatsoever, or from the act or negligence of any other tenant or any officer, agent, employee, contractor or guest of any such tenant. Tenant acknowledges the necessity of housekeeping, ventilation, and moisture control (especially in kitchens, janitor's closets, bathrooms, and break rooms) for mold prevention. Tenant agrees to immediately notify Landlord if it observes mold/mildew and/or moisture conditions (from any source, including leaks), and allow Landlord to evaluate and make recommendations and/or

take appropriate corrective action. Tenant relieves Landlord from any liability for any bodily injury or damages to property caused by or associated with moisture or the growth of or occurrence of mold or mildew on the Premises. In addition, execution of this Lease constitutes acknowledgement by Tenant that control of moisture and mold prevention are integral to its Lease obligations. Tenant shall adopt and implement the moisture and mold control guidelines set forth on Exhibit J attached hereto.

(iii) **Performance of Work**. All work described in this Section 8 shall be performed only by contractors and subcontractors approved in writing by Landlord, such approval not to be unreasonably withheld, conditioned or delayed (provided, however, such approval may be granted or withheld in Landlord's sole discretion if the work affects the Building's Structure or the Building's Systems, including, without limitation, the roof, as provided below). Tenant shall cause all contractors and subcontractors to procure and maintain insurance coverage against such risks, in such amounts, and with such companies as Landlord may reasonably require, but in no event less than: (i) Commercial General Liability insurance on an occurrence basis in amounts not less than $2,000,000 ($1,000,000 of which may be in excess umbrella coverage) naming Landlord, Landlord's property management company and Invesco Advisers, Inc. ("**Invesco**") as additional insureds; (ii) workers' compensation insurance in amounts required by statute; and (iii) Business Automobile Liability insurance on an occurrence basis in amounts not less than $1,000,000. Tenant shall provide Landlord with insurance certificates for such contractors and subcontractors prior to commencement of any work. Tenant shall provide Landlord with the identities, mailing addresses and telephone numbers of all persons performing work at the Premises (provided, however, if such persons are performing work under contract by a general contractor hired by Tenant, then only the general contractor's identity and contact information shall be required) prior to beginning such construction and Landlord may post on and about the Premises notices of non-responsibility pursuant to applicable Laws. All such work shall be performed in accordance with all Laws and in a good and workmanlike manner so as not to damage the Building (including the Premises, the Building's Structure and the Building's Systems). All work affecting the Building's Structure and the Building's Systems and roof of the Building shall, at Landlord's discretion, be performed by Landlord's contractor or a contractor approved by Landlord in its sole and absolute discretion and no such work will be permitted if it would void or reduce the warranty on the roof.

(c) **Mechanic's Liens**. All work performed, materials furnished, or obligations incurred by or at the request of a Tenant Party shall be deemed authorized and ordered by Tenant only, and Tenant shall not permit any mechanic's liens to be filed against the Premises or the Project in connection therewith. Upon completion of any such work, Tenant shall deliver to Landlord final lien waivers from all contractors, subcontractors and materialmen who performed such work. If such a lien is filed, then Tenant shall, within thirty (30) days after Landlord has delivered notice of the filing thereof to Tenant (or such earlier time period as may be necessary to prevent the forfeiture of the Premises, Project or any interest of Landlord therein or the imposition of a civil or criminal fine with respect thereto), either: (1) pay the amount of the lien and cause the lien to be released of record; or (2) diligently contest such lien and deliver to Landlord a bond or other security reasonably satisfactory to Landlord. If Tenant fails to timely take either such action, then Landlord may pay the lien claim, and any amounts so paid, including expenses and interest, shall be paid by Tenant to Landlord within thirty (30) days after Landlord has invoiced Tenant therefor. Landlord and Tenant acknowledge and agree that their relationship is and shall be solely that of "landlord-tenant" (thereby excluding a relationship of "owner-contractor," "owner-agent" or other similar relationships). Accordingly, all materialmen, contractors, artisans, mechanics, laborers and any other persons now or hereafter contracting

with Tenant, any contractor or subcontractor of Tenant or any other Tenant Party for the furnishing of any labor, services, materials, supplies or equipment with respect to any portion of the Premises, at any time from the date hereof until the end of the Term, are hereby charged with notice that they look exclusively to Tenant to obtain payment for same. Nothing herein shall be deemed a consent by Landlord to any liens being placed upon the Premises, Project or Landlord's interest therein due to any work performed by or for Tenant or deemed to give any contractor or subcontractor or materialman any right or interest in any funds held by Landlord to reimburse Tenant for any portion of the cost of such work. Tenant shall indemnify, defend and hold harmless Landlord, its property manager, Invesco, any subsidiary or affiliate of the foregoing, and their respective officers, directors, shareholders, partners, employees, managers, contractors, attorneys and agents (collectively, the "**Indemnitees**") from and against all claims, demands, causes of action, suits, judgments, damages and expenses (including attorneys' fees) in any way arising from or relating to the failure by any Tenant Party to pay for any work performed, materials furnished, or obligations incurred by or at the request of a Tenant Party. The foregoing indemnity shall survive termination or expiration of this Lease.

(d) **Signs**. Landlord shall, at Landlord's cost, provide Tenant with its initial Building standard signage at the entrance to Tenant's Premises and in the Building's lobby directory. Tenant shall be responsible for all costs of installing, maintaining, removing and restoration of said signage. Except as expressly provided above, Tenant shall not place or permit to be placed any signs upon: (i) the roof of the Building; or (ii) the Common Areas; or (iii) any area visible from the exterior of the Premises without Landlord's prior written approval, which approval shall be granted or withheld by Landlord in its sole discretion. Upon request of Landlord, Tenant shall immediately remove any sign, advertising material or lettering which Tenant has placed or permitted to be placed upon the exterior or interior surface of any door or window or at any point inside the Premises, which in Landlord's reasonable opinion, is of such a nature as to not be in keeping with the standards of the Building, and if Tenant fails to do so, Landlord may without liability remove the same at Tenant's expense. Tenant shall comply with such regulations as may from time to time be promulgated by Landlord governing signs, advertising material or lettering of all tenants in Phase One or Project, as applicable. Tenant, upon vacation of the Premises, or the removal or alteration of its sign for any reason, shall be responsible for the repair, painting or replacement of the Building fascia surface or other portion of the Building where signs are attached. If Tenant fails to do so, Landlord may have the sign removed and the cost of removal plus fifteen percent (15%) as an administrative fee shall be payable by Tenant within ten (10) days of invoice.

9. **Use**. Tenant shall occupy and use the Premises only for the Permitted Use (as set forth in the Basic Lease Information) and shall comply with all Laws relating to the use, condition, access to, and occupancy of the Premises and will not commit waste, overload the Building's Structure or the Building's Systems or subject the Premises to any use that would damage the Premises. Tenant, at its sole cost and expense, shall obtain and keep in effect during the term, all permits, licenses, and other authorizations necessary to permit Tenant to use and occupy the Premises for the Permitted Use in accordance with applicable Law. The population density within the Premises as a whole shall at no time exceed one person for each 150 rentable square foot in the Premises. Notwithstanding anything in this Lease to the contrary, as between Landlord and Tenant: (a) Tenant shall bear the risk of complying with Title III of the Americans With Disabilities Act of 1990, any state laws governing handicapped access or architectural barriers, and all rules, regulations, and guidelines promulgated under such laws, as amended from time to time (the "**Disabilities Acts**") within the Premises after the Commencement Date; and (b) Landlord shall bear the risk of complying with the Disabilities Acts

(i) within the Premises prior to and as of the Commencement Date and (ii) in the Common Areas throughout the Term (subject to reimbursement to the extent permitted pursuant to Exhibit C), other than compliance that is necessitated by or as a result of any alterations or additions made by Tenant or any particular use by Tenant other than the Permitted Use (which risk and responsibility shall be borne by Tenant). Tenant shall not use any substantial portion of the Premises for a "call center", any other telemarketing use, or any credit processing use. In addition, the Premises shall not be used for any purpose which creates strong, unusual, or offensive odors, fumes, dust or vapors; which emits noise or sounds that are objectionable due to intermittence, beat, frequency, shrillness, or loudness; which is associated with indecent or pornographic matters; or which involves political or moral issues (such as abortion issues). Tenant shall conduct its business and control each other Tenant Party so as not to create any nuisance or unreasonably interfere with other tenants or Landlord in its management of the Building. Tenant shall not knowingly conduct or permit to be conducted in the Premises any activity, or place any equipment in or about the Premises or the Building, which will invalidate the insurance coverage in effect or increase the rate of fire insurance or other insurance on the Premises or the Building. If any invalidation of coverage or increase in the rate of fire insurance or other insurance occurs or is threatened by any insurance company due to activity conducted from the Premises, or any act or omission by Tenant, or its agents, employees, representatives, or contractors, such statement or threat shall be conclusive evidence that the increase in such rate is due to such act of Tenant or the contents or equipment in or about the Premises, and, as a result thereof, Tenant shall be liable for such increase and such increase shall be considered Additional Rent payable with the next monthly installment of Base Rent due under this Lease, and Landlord's acceptance of such amounts shall not waive any of Landlord's other rights. In no event shall Tenant introduce or permit to be kept on the Premises or brought into the Building any dangerous, noxious, radioactive or explosive substance.

10. **Assignment and Subletting**.

(a) **Transfers**. Tenant shall not, without the prior written consent of Landlord: (1) assign, transfer, or encumber this Lease or any estate or interest herein, whether directly or by operation of law; (2) permit any other entity to become Tenant hereunder by merger, consolidation, or other reorganization; (3) if Tenant is an entity other than a corporation whose stock is publicly traded, permit the transfer of an ownership interest in Tenant so as to result in a change in the current control of Tenant; (4) sublet any portion of the Premises; (5)grant any license, concession, or other right of occupancy of any portion of the Premises; or (6)permit the use of the Premises by any parties other than Tenant (any of the events listed in Section 10(a)(1) through Section 10(a)(6) being a "**Transfer**"). Notwithstanding anything to the contrary contained in this Lease, Tenant shall have the right, without the prior written consent of Landlord, but with written notice to Landlord prior thereto, or as promptly as reasonably practical thereafter, to assign this Lease or sublease all or any portion of the Premises (i) to any Affiliate of Tenant, or (ii) in connection with a sale or transfer of all or substantially all of the assets, stock or ownership interests of Tenant, or (iii) to an entity which has a tangible net worth, as evidenced by certified financials delivered to Landlord, equal or greater to that of Tenant's tangible net worth as of the date of this Lease (any Transfer described in subclauses (i) through (iii) being referred to herein as a "**Permitted Transfer**") and a transferee in connection with a Permitted Transfer a "**Permitted Transferee**"), provided that: (x) within five (5) business days after the effective date of such assignment or sublease, Tenant shall give notice to Landlord, which notice shall include the full name and address of the Permitted Transferee, and shall provide Landlord with copies of all agreements executed between Tenant and the Permitted Transferee with respect to the Premises, and evidence that such Permitted Transferee has obtained the

insurance required under this Lease; (y) within ten (10) business days after Landlord's written request, Tenant shall provide such documents or information which Landlord reasonably requests for the purpose of substantiating whether or not the Transfer meets the Permitted Transfer criteria in subsections (i), (ii) or (iii) above; and (z) such Permitted Transferee must use the Premises for the Permitted Use set forth in this Lease and shall in no event use the Premises or any part thereof in violation of applicable Laws or any then current exclusives or prohibited uses binding on the Premises. Tenant shall pay Landlord's reasonable costs and reasonable attorney's fees in reviewing such assignment but in no such event shall such costs and fees exceed Three Thousand Five Hundred Dollars ($3,500).

(b) **Consent Standards**. To the extent that Landlord's consent is required hereunder, Landlord shall not unreasonably withhold, condition or delay its consent to any assignment or subletting of the Premises, provided that Tenant is not then in default under this Lease beyond any applicable notice and/or cure period and the proposed transferee: (1) is creditworthy; (2) has a good reputation in the business community; (3) will use the Premises for the Permitted Use (thus, excluding without limitation, uses for credit processing and telemarketing) and will not use the Premises in any manner that would conflict with any exclusive use agreement or other similar agreement entered into by Landlord with any other tenant of Phase One or Project, as applicable; (4) will not use the Premises, Phase One or Project in a manner that would materially increase the pedestrian or vehicular traffic to the Premises, Phase One or Project; (5) is not a governmental entity, or subdivision or agency thereof; (6) is not another occupant of Phase One or the Project; and (7) is not a person or entity with whom Landlord is then, or has been within the four (4) month period prior to the date Tenant sought Landlord's consent, negotiating to lease space in Phase One or the Project, or any Affiliate of any such person or entity (all of the foregoing Section 10(b)(1) through Section 10(b)(7) being deemed reasonable bases for withholding consent); otherwise, Landlord may withhold its consent in its sole discretion.

(c) **Request for Consent**. If Tenant requests Landlord's consent to a Transfer, then, at least thirty (30) days prior to the effective date of the proposed Transfer, Tenant shall provide Landlord with a written description of all terms and conditions of the proposed Transfer, copies of the proposed pertinent documentation, and the following information about the proposed transferee: name and address; reasonably satisfactory information about its business and business history; its proposed use of the Premises; banking, financial, and other credit information; and general references sufficient to enable Landlord to determine the proposed transferee's creditworthiness and character. Concurrently with Tenant's notice of any request for consent to a Transfer, Tenant shall pay to Landlord a fee of $1,000 to defray Landlord's expenses in reviewing such request.

(d) **Conditions to Consent**. If Landlord consents to a proposed Transfer, then the proposed transferee shall deliver to Landlord a written agreement whereby it expressly assumes Tenant's obligations hereunder; however, any transferee of less than all of the space in the Premises shall be liable only for obligations under this Lease that are properly allocable to the space subject to the Transfer for the period of the Transfer. No Transfer shall release Tenant from its obligations under this Lease, but rather Tenant and its transferee shall be jointly and severally liable therefor. Landlord's consent to any Transfer shall not be deemed consent to any subsequent Transfers. If an Event of Default occurs while the Premises or any part thereof are subject to a Transfer, then Landlord, in addition to its other remedies, may collect directly from such transferee all rents becoming due to Tenant and apply such rents against Rent. Tenant authorizes its transferees to make payments of rent directly to Landlord upon receipt of notice

from Landlord to do so following the occurrence of an Event of Default hereunder. In all events, it is understood and agreed that all rents paid to Tenant by an assignee or subtenant shall be received by Tenant in trust for Landlord and shall be forwarded to Landlord without offset or reduction of any kind. Tenant shall pay for the cost of any demising walls or other improvements necessitated by a proposed subletting or assignment (provided that the foregoing shall not waive any approval right that Landlord may have with respect to such improvements pursuant to another provision of this Lease).

(e) **Attornment by Subtenants**. Each sublease by Tenant hereunder shall be subject and subordinate to this Lease and to the matters to which this Lease is or shall be subordinate, and each subtenant by entering into a sublease is deemed to have agreed that in the event of termination, re-entry or dispossession by Landlord under this Lease, Landlord may, at its option, either terminate the sublease or take over all of the right, title and interest of Tenant, as sublandlord, under such sublease, and such subtenant shall, at Landlord's option, attorn to Landlord pursuant to the then executory provisions of such sublease, except that Landlord shall not be: (1) liable for any previous act or omission of Tenant under such sublease; (2) subject to any counterclaim, offset or defense that such subtenant might have against Tenant; (3) bound by any previous modification of such sublease or by any rent or additional rent or advance rent which such subtenant might have paid for more than the current month to Tenant, and all such rent shall remain due and owing, notwithstanding such advance payment; (4) bound by any security or advance rental deposit made by such subtenant which is not delivered or paid over to Landlord and with respect to which such subtenant shall look solely to Tenant for refund or reimbursement; or (5) obligated to perform any work in the subleased space or to prepare it for occupancy, and in connection with such attornment, the subtenant shall execute and deliver to Landlord any instruments Landlord may reasonably request to evidence and confirm such attornment. Each subtenant or licensee of Tenant shall be deemed, automatically upon and as a condition of its occupying or using the Premises or any part thereof, to have agreed to be bound by the terms and conditions set forth in this Section 10(e). The provisions of this Section 10(e) shall be self-operative, and no further instrument shall be required to give effect to this provision.

(f) **Cancellation**. Landlord may, within thirty (30) days after submission of Tenant's written request for Landlord's consent to an assignment or subletting, cancel this Lease as to the portion of the Premises proposed to be sublet or assigned as of the date the proposed Transfer is to be effective; provided, however, if Landlord elects to exercise its right to recapture set forth in this Subsection 10(f), then Tenant shall have the right to rescind its request for consent to the Transfer by delivering written notice of such rescission to Landlord within three (3) business days after delivery of Landlord's notice to recapture so long as Tenant reimburses Landlord for all of its reasonable costs and expenses incurred in connection with reviewing and exercising such recapture right, including, without limitation, reasonable attorneys' and brokers' fees. If Landlord cancels this Lease as to any portion of the Premises, then this Lease shall cease for such portion of the Premises, Tenant shall pay to Landlord all Rent accrued through the cancellation date relating to the portion of the Premises covered by the proposed Transfer, and Rent shall be reduced proportionately based on the remaining square footage in the Premises. Thereafter, Landlord may lease such portion of the Premises to the prospective transferee (or to any other person) without liability to Tenant.

(g) **Additional Compensation**. Tenant shall pay to Landlord, immediately upon receipt thereof, fifty percent (50%) of the excess of all compensation received by Tenant

for a Transfer over the Rent allocable to the portion of the Premises covered thereby, after deducting Tenant's reasonable and documented costs incurred in connection with such Transfer.

(h) **Waiver**. Tenant hereby waives any suretyship defenses it may now or hereafter have to an action brought by Landlord including those contained in Sections 2787 through 2856, inclusive, 2899 and 3433 of the California Civil Code, as now or hereafter amended, or similar laws of like import.

11. **Insurance; Waivers; Subrogation; Indemnity**.

(a) **Tenant's Insurance**. Effective as of the earlier of: (1) the date Tenant enters or occupies the Premises; or (2) the Commencement Date, and continuing throughout the Term, Tenant shall maintain the following insurance policies:

(i) Commercial General Liability Insurance in amounts of no less than$3,000,000 per occurrence for bodily injury and property damage, $3,000,000 each person or organization for personal and advertising injury, $3,000,000 general aggregate, and $3,000,000 products and completed operations aggregate covering: (A) premises/operations liability, (B) products/completed operations liability, (C) personal and advertising injury liability, (D) independent contractors liability, and (E) broad form contractual liability. Such policy shall: (1) be primary and non-contributory to any insurance or self-insurance maintained by Tenant, Landlord, Landlord's property management company and Invesco with respect to the use and occupancy of the Premises including all operations conducted thereon; (2) include severability of interests or cross liability provisions; (3) be endorsed to add Landlord, Landlord's property management company, and Invesco as additional insureds using Insurance Services Office ("**ISO**") form CG 20 26 07 04 and, where applicable, 20 37 07 04 or substitute equivalent forms approved in writing by Landlord; (4) include terrorism coverage up to the full per occurrence and aggregate limits available under the policy; and (5) insure other activities that the Landlord deems necessary, such as insurance for liquor liability. Limits can be satisfied through the maintenance of a combination of primary and umbrella policies. Tenant may maintain such insurance on a multi-location basis provided that the aggregate limits or sublimits on each policy are dedicated to the Premises and thereby not subject to dilution by claims occurring at other locations.

(ii) Automobile Liability Insurance (if applicable) covering the ownership, maintenance, and operations of any automobile or automotive equipment, whether such auto is owned, hired, and non-owned. Tenant shall maintain insurance with a combined single limit for bodily injury and property damage of not less than the equivalent of $1,000,000 per accident. Limits can be satisfied through the maintenance of a combination of primary and umbrella policies. Such insurance shall cover Tenant against claims for bodily injury, including death resulting therefrom, and damage to the property of others caused by accident regardless of whether such operations are performed by Tenant, Tenant's agents, or by any one directly or indirectly employed by any of them. Tenant's automobile liability insurance shall be endorsed to add Landlord, Landlord's property management company, and Invesco as additional insureds

(iii) Commercial Property Insurance covering at full replacement cost value the following property in the Premises: (A) inventory; (B) FF&E (unattached furniture, fixtures, and equipment); (C) alterations, improvements and betterments made by the Tenant including but not necessarily limited to all permanently attached fixtures and equipment; and (D) any other property in which the Tenant retains the risk of loss including electronic data processing equipment, employee personal property or other property owned or leased by Tenant. Such property insurance shall include: (1) coverage against such perils as are

commonly included in the special causes of loss form, with no exclusions for wind and hail, vandalism and malicious mischief, and endorsed to add the perils of earthquake, flood, and terrorism; (2) business income coverage providing for the full recovery of loss of rents and continuing expenses on an actual loss sustained basis for a period of not less than 12 months; (3) an "agreed amount" endorsement waiving any coinsurance requirements; and (4) a loss payable endorsement providing that Tenant, Landlord, and Landlord's Mortgagee (as hereinafter defined) shall be a loss payee on the policy with regard to the loss of rents coverage. "Full replacement value," as used herein, means the cost of repairing, replacing, or reinstating, including demolishing, any item of property, with materials of like kind and quality in compliance with, (and without, an exclusion pertaining to application of), any law or building ordinance regulating repair or construction at the time of loss and without deduction for physical, accounting, or any other depreciation, in an amount sufficient to meet the requirements of any applicable co-insurance clause and to prevent Tenant from being a co-insurer.

(iv) Workers Compensation Insurance covering statutory benefits in the state where the Premises is located. This policy shall include "other states" insurance, so as to include all states not named on the declarations page of the insurance policy, except for the monopolistic states. Tenant is required to carry this insurance regardless of eligibility for waiver or exemption of coverage under any applicable state statute. Such insurance shall include an employers liability coverage part with limits that shall be not less than $1,000,000 each accident for bodily injury by accident and $1,000,000 each employee and policy limit for bodily injury by disease.

(v) Such other insurance or any changes or endorsements to the insurance required herein, including increased limits of coverage, as Landlord, or any mortgagee or lessor of Landlord, may reasonably require from time to time.

Tenant's commercial general liability insurance, automobile liability insurance and, all other insurance policies, where such policies permit coverage for Landlord as an additional insured, shall provide primary coverage to Landlord and shall not require contribution by any insurance maintained by Landlord, when any policy issued to Landlord provides duplicate or similar coverage, and in such circumstance Landlord's policy will be excess over Tenant's policy. Tenant shall furnish to Landlord certificates of such insurance, and where applicable with the additional insured endorsements in forms CG 20 26 07 04 and 20 37 07 04 (or other equivalent forms approved in writing by Landlord), and such other evidence satisfactory to Landlord of the maintenance of all insurance coverages required hereunder at least ten (10) days prior to the earlier of the Commencement Date or the date Tenant enters or occupies the Premises, and at least fifteen (15) days prior to each renewal of said insurance, and Tenant shall obtain a written obligation on the part of each insurance company to notify Landlord at least thirty (30) days before cancellation, non-renewal or a material change of any such insurance policies. All such insurance policies shall be in form, and issued by companies licensed to do business in the state where the Premises is located, rated by AM Best as having a financial strength rating of "A-" or better and a financial size category of "IX" or greater, or otherwise reasonably satisfactory to Landlord. If Tenant fails to comply with the foregoing insurance requirements or to deliver to Landlord the certificates or evidence of coverage required herein, Landlord, in addition to any other remedy available pursuant to this Lease or otherwise, may, but shall not be obligated to, obtain such insurance and Tenant shall pay to Landlord on demand the premium costs thereof, plus an administrative fee of fifteen percent (15%) of such cost. It is expressly understood and agreed that the foregoing minimum limits of liability and coverages required of Tenant's insurance shall not reduce or limit the obligation of the Tenant to indemnify the

Landlord as provided in this Lease. All policies required herein shall use occurrence based forms. Any and all of the premiums, deductibles and self-insured retentions associated with the policies providing the insurance coverage required herein shall be assumed by, for the account of, and at the sole risk of Tenant. Deductibles or self-insured retentions may not exceed $10,000 without the prior written approval of Landlord.

(b) **Landlord's Insurance**. Throughout the Term of this Lease, Landlord shall maintain, as a minimum, the following insurance policies: (1) property insurance for the Building's replacement value (excluding property required to be insured by Tenant, it being agreed that Landlord shall have no obligation to provide insurance for such property), less a commercially-reasonable deductible if Landlord so chooses; and (2) commercial general liability insurance in an amount of not less than $3,000,000 per occurrence for bodily injury and property damage, $3,000,000 each person or organization for personal and advertising injury, $3,000,000 general aggregate, and $3,000,000 products and completed operations aggregate. Limits can be satisfied through the maintenance of a combination of primary and umbrella policies. Landlord may, but is not obligated to, maintain such other insurance and additional coverages as it may deem necessary. Tenant shall pay its Proportionate Share of the cost of all insurance carried by Landlord with respect to the Project as set forth on Exhibit C. The foregoing insurance policies and any other insurance carried by Landlord shall be for the sole benefit of Landlord and under Landlord's sole control, and Tenant shall have no right or claim to any proceeds thereof or any other rights thereunder.

(c) **Waiver of Subrogation**. Notwithstanding anything to the contrary herein, to the extent permitted by law and without affecting the coverage provided by insurance required to be maintained hereunder, Landlord and Tenant shall each agree to waive any right to recover against the other party (and the other party's agents, officers, directors and employees) on account of any and all claims it may have against the other party (and the other party's agents, officers, directors and employees) with respect to the insurance actually maintained, or required to be maintained hereunder, under subparagraphs 11(a)(i) through (vi), inclusive, and to the extent proceeds are realized from such insurance coverage that are applied to such claims. Each policy described in this Lease shall contain a waiver of subrogation endorsement that provides that the waiver of any right to recovery shall not invalidate the policy in any way.

(d) **Indemnity**.

(1) Subject to Section 11(c), Tenant shall indemnify, defend and hold harmless Landlord and the Indemnitees from and against all claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including attorneys' fees) and all losses and damages arising from: (1) any injury to or death of any person or the damage to or theft, destruction, loss, or loss of use of any property or inconvenience (a "**Loss**") arising from any occurrence in the Premises, the use of the Common Areas by any Tenant Party, or the installation, operation, maintenance, repair or removal of any of Tenant's Off-Premises Equipment; or (2) Tenant's failure to perform its obligations under this Lease, IN EACH CASE EVEN THOUGH CAUSED OR ALLEGED TO BE CAUSED BY THE NEGLIGENCE OR FAULT OF LANDLORD OR ITS AGENTS (OTHER THAN A LOSS ARISING FROM THE SOLE NEGLIGENCE OF LANDLORD OR ITS AGENTS), AND EVEN THOUGH ANY SUCH CLAIM, CAUSE OF ACTION, OR SUIT IS BASED UPON OR ALLEGED TO BE BASED UPON THE STRICT LIABILITY OF LANDLORD OR ITS AGENTS. THIS INDEMNITY IS INTENDED TO INDEMNIFY LANDLORD AND ITS AGENTS AGAINST THE CONSEQUENCES OF THEIR OWN NEGLIGENCE OR FAULT AS PROVIDED ABOVE WHEN LANDLORD OR ITS AGENTS

ARE JOINTLY, COMPARATIVELY, CONTRIBUTIVELY, OR CONCURRENTLY NEGLIGENT WITH TENANT.

(1) Subject to Section 11(c), Landlord shall indemnify, defend and hold harmless Tenant and any Tenant Party from and against all claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees arising from (i) the negligence or intentional misconduct of Landlord or any Landlord Indemnitee or (ii) Landlord's failure to perform its obligations under this Lease.

The indemnities set forth in this Section 11(d) shall survive termination or expiration of this Lease and shall not terminate or be waived, diminished or affected in any manner by any abatement or apportionment of Rent under any provision of this Lease. If any proceeding is filed for which indemnity is required hereunder, the indemnifying party agrees, upon request therefor, to defend the indemnified party in such proceeding at its sole cost utilizing counsel satisfactory to the indemnified party in its reasonable discretion.

12. **Subordination; Attornment; Notice to Landlord's Mortgagee**.

(a) **Subordination**. This Lease shall be subject and subordinate to any deed of trust, mortgage, or other security instrument (each, as renewed, modified, and/or extended from time to time, a "**Mortgage**"), or any ground lease, master lease, or primary lease (each, as renewed, modified, and/or extended from time to time, a "**Primary Lease**"), that now or hereafter covers all or any part of the Premises (the mortgagee under any such Mortgage, beneficiary under any such deed of trust, or the lessor under any such Primary Lease is referred to herein as a "**Landlord's Mortgagee**"). Any Landlord's Mortgagee may elect at any time, unilaterally, to make this Lease superior to its Mortgage, Primary Lease, or other interest in the Premises by so notifying Tenant in writing. The provisions of this Section shall be self-operative and no further instrument of subordination shall be required; however, in confirmation of such subordination, Tenant shall execute and return to Landlord (or such other party designated by Landlord) within ten (10) days after written request therefor such documentation, in recordable form if required, as a Landlord's Mortgagee may reasonably request to evidence the subordination of this Lease to such Landlord's Mortgagee's Mortgage or Primary Lease (including a subordination, non-disturbance and attornment agreement) or, if the Landlord's Mortgagee so elects, the subordination of such Landlord's Mortgagee's Mortgage or Primary Lease to this Lease.

(b) **Attornment**. Tenant shall attorn to any party succeeding to Landlord's interest in the Premises, whether by purchase, foreclosure, deed in lieu of foreclosure, power of sale, termination of lease, or otherwise, upon such party's request, and shall execute such agreements confirming such attornment as such party may reasonably request.

(c) **Notice to Landlord's Mortgagee**. Tenant shall not seek to enforce any remedy it may have for any default on the part of Landlord without first giving written notice by certified mail, return receipt requested, specifying the default in reasonable detail, to any Landlord's Mortgagee whose address has been given to Tenant, and affording such Landlord's Mortgagee a reasonable opportunity to perform Landlord's obligations hereunder.

(d) **Landlord's Mortgagee's Protection Provisions**. If Landlord's Mortgagee shall succeed to the interest of Landlord under this Lease, Landlord's Mortgagee shall not be: (1) liable for any act or omission of any prior lessor (including Landlord); (2) bound by any rent or additional rent or advance rent which Tenant might have paid for more than one (1) month in advance to any prior lessor (including Landlord), and all such rent shall remain due and owing, notwithstanding such advance payment; (3) bound by any security or advance rental deposit made by Tenant which is not delivered or paid over to Landlord's Mortgagee and with respect to which Tenant shall look solely to Landlord for refund or reimbursement; (4) bound by any termination, amendment or modification of this Lease made without Landlord's Mortgagee's consent and written approval, except for those terminations, amendments and modifications permitted to be made by Landlord without Landlord's Mortgagee's consent pursuant to the terms of the loan documents between Landlord and Landlord's Mortgagee; (5) subject to the defenses which Tenant might have against any prior lessor (including Landlord); and (6) subject to the offsets which Tenant might have against any prior lessor (including Landlord) except for those offset rights which (A) are expressly provided in this Lease, (B) relate to periods of time following the acquisition of the Building by Landlord's Mortgagee, and (C) Tenant has provided written notice to Landlord's Mortgagee and provided Landlord's Mortgagee a reasonable opportunity to cure the event giving rise to such offset event. Landlord's Mortgagee shall have no liability or responsibility under or pursuant to the terms of this Lease or otherwise after it ceases to own an interest in the Building. Nothing in this Lease shall be construed to require Landlord's Mortgagee to see to the application of the proceeds of any loan, and Tenant's agreements set forth herein shall not be impaired on account of any modification of the documents evidencing and securing any loan.

13. **Rules and Regulations**. Tenant shall comply with the rules and regulations of the Building which are attached hereto as Exhibit E. Landlord may, from time to time, change such rules and regulations for the safety, care, or cleanliness of the Building and related facilities, provided that such changes are applicable to all tenants of the Building, will not unreasonably interfere with Tenant's use of the Premises, will not materially increase Tenant's duties or obligations or materially decrease Tenant's rights hereunder, and must be enforced by Landlord in a non-discriminatory manner. Tenant shall be responsible for the compliance with such rules and regulations by each Tenant Party.

14. **Condemnation**.

(a) **Total Taking**. If the entire Building or Premises are taken by right of eminent domain or conveyed in lieu thereof (a "**Taking**"), this Lease shall terminate as of the date of the Taking.

(b) **Partial Taking - Tenant's Rights**. If any part of the Building becomes subject to a Taking and such Taking will prevent Tenant from conducting its business in the Premises in a manner reasonably comparable to that conducted immediately before such Taking for a period of more than one hundred eighty (180) days, then Tenant may terminate this Lease as of the date of such Taking by giving written notice to Landlord within thirty (30) days after the Taking, and Rent shall be apportioned as of the date of such Taking. If Tenant does not terminate this Lease, then Rent shall be abated on a reasonable basis as to that portion of the Premises rendered untenantable by the Taking.

(c) **Partial Taking - Landlord's Rights**. If any material portion, but less than all, of the Building becomes subject to a Taking, or if Landlord is required to pay any of the proceeds arising from a Taking to a Landlord's Mortgagee, then Landlord may terminate this

Lease by delivering written notice thereof to Tenant within thirty (30) days after such Taking, and Rent shall be apportioned as of the date of such Taking. If Landlord does not so terminate this Lease, then this Lease will continue, but if any portion of the Premises has been taken, Rent shall abate as provided in the last sentence of Section 14(b).

(d) **Award**. If any Taking occurs, then Landlord shall receive the entire award or other compensation for the Land, the Building, and other improvements taken; however, Tenant may separately pursue a claim (to the extent it will not reduce Landlord's award) against the condemnor for the value of Tenant's personal property which Tenant is entitled to remove under this Lease, moving costs, loss of business, and other claims it may have.

(e) **Repair**. If the Lease is not terminated, Landlord shall proceed with reasonable diligence to restore the remaining part of the Premises and the Building substantially to their former condition to the extent feasible to constitute a complete and tenantable Premises and Building; provided, however, that Landlord shall only be required to reconstruct building standard leasehold improvements existing in the Premises as of the date of the Taking, and Tenant shall be required to pay the cost for restoring any other leasehold improvements. In no event shall Landlord be required to spend more than the condemnation proceeds received by Landlord for such repair.

(f) **Waiver**. The rights contained in this Section 14 shall be Tenant's sole and exclusive remedy in the event of a taking or condemnation. Landlord and Tenant each waives the provisions of Section 1265.130 and 1265.150 of the California Code of Civil Procedure and the provisions of any successor or other law of like import.

15. **Fire or Other Casualty**.

(a) **Repair Estimate**. If the Premises or the Building are damaged by fire or other casualty (a "**Casualty**"), Landlord shall use good faith efforts to deliver to Tenant within sixty (60) days after such Casualty a good faith estimate (the "**Damage Notice**") of the time needed to repair the damage caused by such Casualty.

(b) **Tenant's Rights**. If a material portion of the Premises is damaged by Casualty such that Tenant is prevented from conducting its business in the Premises in a manner reasonably comparable to that conducted immediately before such Casualty and Landlord estimates that the damage caused thereby cannot be repaired within one hundred eighty (180) days after the commencement of repairs (the "**Repair Period**"), then Tenant may terminate this Lease by delivering written notice to Landlord of its election to terminate within thirty (30) days after the Damage Notice has been delivered to Tenant.

(c) **Landlord's Rights**. If a Casualty damages the Premises or a material portion of the Building and: (1) Landlord estimates that the damage to the Premises cannot be repaired within the Repair Period; (2) the damage to the Premises exceeds fifty percent (50%) of the replacement cost thereof (excluding foundations and footings), as estimated by Landlord, and such damage occurs during the last two (2) years of the Term; (3) regardless of the extent of damage to the Premises, Landlord makes a good faith determination that restoring the Building would be uneconomical; or (4) Landlord is required to pay any insurance proceeds arising out of the Casualty to a Landlord's Mortgagee, then Landlord may terminate this Lease by giving written notice of its election to terminate within thirty (30) days after the Damage Notice has been delivered to Tenant.

(d) **Repair Obligation**. If neither party elects to terminate this Lease following a Casualty, then Landlord shall, within a reasonable time after such Casualty, begin to repair the Premises and shall proceed with reasonable diligence to restore the Premises to substantially the same condition as they existed immediately before such Casualty; however, other than building standard leasehold improvements Landlord shall not be required to repair or replace any Alterations or betterments within the Premises (which shall be promptly and with due diligence repaired and restored by Tenant at Tenant's sole cost and expense) or any furniture, equipment, trade fixtures or personal property of Tenant or others in the Premises or the Building, and Landlord's obligation to repair or restore the Premises shall be limited to the extent of the insurance proceeds actually received by Landlord for the Casualty in question. If this Lease is terminated under the provisions of this Section 15, Landlord shall be entitled to the full proceeds of the insurance policies providing coverage for all Alterations, improvements and betterments in the Premises (and, if Tenant has failed to maintain insurance on such items as required by this Lease, then Tenant shall pay Landlord an amount equal to the proceeds Landlord would have received had Tenant maintained insurance on such items as required by this Lease).

(e) **Abatement of Rent**. If the Premises are damaged by Casualty, Rent for the portion of the Premises rendered untenantable by the damage shall be abated on a reasonable basis from the date of damage until the completion of Landlord's repairs (or until the date of termination of this Lease by Landlord or Tenant as provided above, as the case may be), unless a Tenant Party caused such damage, in which case, Tenant shall continue to pay Rent without abatement.

(f) **Waiver**. The rights contained in this Section 15 shall be Tenant's sole and exclusive remedy in the event of a Casualty. Tenant hereby waives the provisions of Sections 1932(2) and 1933(4) of the California Civil Code and the provisions of any successor or other law of like import.

16. **Personal Property Taxes**. Tenant shall be liable for all taxes levied or assessed against personal property, furniture, or fixtures placed by Tenant in the Premises or in or on the Building or Project. If any taxes for which Tenant is liable are levied or assessed against Landlord or Landlord's property and Landlord elects to pay the same, or if the assessed value of Landlord's property is increased by inclusion of such personal property, furniture or fixtures and Landlord elects to pay the taxes based on such increase, then Tenant shall pay to Landlord, within thirty (30) days following written request therefor, the part of such taxes for which Tenant is primarily liable hereunder.

17. **Events of Default**. Each of the following occurrences shall be an "**Event of Default**":

(a) **Payment Default**. Tenant's failure to pay Rent within five (5) calendar days after the same is due and Tenant's receipt of written notice of such past due amount; provided, however, that Landlord shall not be required to deliver more than two (2) such notices in any calendar year in connection with Tenant's failure to pay monthly Rent;

(b) **Abandonment**. Tenant abandons the Premises or any substantial portion thereof, abandonment being defined pursuant to applicable law.

(c) **Estoppel/Financial Statement / Commencement Date Letter**. Tenant fails to provide: (i) any estoppel certificate after Landlord's written request therefor pursuant to Section 26(e); (ii) any financial statement after Landlord's written request therefor pursuant to Section 26(g); or (iii) the Confirmation of Commencement Date in the form of Exhibit F as required by Section 3, and such failure shall continue for five (5) calendar days after Landlord's second (2nd) written notice thereof to Tenant;

(d) **Insurance**. Tenant fails to procure, maintain and deliver to Landlord evidence of the insurance policies and coverages as required under Section 11(a);

(e) **Mechanic's Liens**. Tenant fails to pay and release of record, or diligently contest and bond around, any mechanic's lien filed against the Premises or the Project for any work performed, materials furnished, or obligation incurred by or at the request of Tenant, within the time and in the manner required by Section 8(c);

(f) **Other Defaults**. Tenant's failure to perform, comply with, or observe any other agreement or obligation of Tenant under this Lease and the continuance of such failure for a period of thirty (30) calendar days or more (or such longer period as is reasonably necessary to complete such cure provided that within such 30-day period Tenant has commenced and diligently cures same within sixty (60) days of Landlord's notice) after Landlord has delivered to Tenant written notice thereof, which notice shall be in lieu of, and not in addition to, any notice required under Section 1161 et seq. of the California Code of Civil Procedure; and

(g) **Insolvency**. The filing of a petition by or against Tenant (the term "**Tenant**" shall include, for the purpose of this Section 17(g), any guarantor of Tenant's obligations hereunder): (1) in any bankruptcy or other insolvency proceeding; (2) seeking any relief under any state or federal debtor relief law; (3) for the appointment of a liquidator or receiver for all or substantially all of Tenant's property or for Tenant's interest in this Lease; or (4) for the reorganization or modification of Tenant's capital structure; however, if such a petition is filed against Tenant, then such filing shall not be an Event of Default unless Tenant fails to have the proceedings initiated by such petition dismissed within sixty (60) calendar days after the filing thereof.

18. **Remedies**. Upon any Event of Default, Landlord may, in addition to all other rights and remedies afforded Landlord hereunder or by law or equity, take any one or more of the following actions:

(a) **Termination of Lease**. Terminate this Lease by giving Tenant written notice thereof, in which event Tenant shall immediately surrender the Premises to Landlord. In the event that Landlord shall elect to so terminate this Lease, then Landlord may recover from Tenant:

(i) The worth at the time of award of any unpaid Rent which had been earned at the time of such termination; plus

(ii) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such Rent loss Tenant proves reasonably could have been avoided; plus

(iii) The worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such Rent loss that Tenant proves reasonably could be avoided; plus

(iv) Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course would be likely to result therefrom, including all amounts due under Section 19(a); plus

(v) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable California law.

As used in subparagraphs (i) and (ii) above, the "worth at the time of award" is computed by allowing interest at the Default Rate. As used in subparagraph (iii) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

Forbearance by Landlord to enforce one or more of the remedies herein provided upon an Event of Default shall not be deemed or construed to constitute a waiver of such default. Tenant hereby waives for Tenant and for all those claiming under Tenant all rights now or hereafter existing to redeem by order or judgment of any court or by any legal process or writ, Tenant's right of occupancy of the Premises after any termination of this Lease.

(b) **Intentionally Deleted**.

(c) **Continue Lease in Effect**. In addition to all other rights and remedies provided Landlord in this Lease and by Law, Landlord shall have the remedy described in California Civil Code Section 1951.4 (Landlord may continue the Lease in effect after Tenant's breach and abandonment and recover Rents as they become due if Tenant has the right to sublet or assign the Lease, subject to reasonable limitations);

(d) **Perform Acts on Behalf of Tenant**. Perform any act Tenant is obligated to perform under the terms of this Lease (and enter upon the Premises in connection therewith if necessary) in Tenant's name and on Tenant's behalf, without being liable for any claim for damages therefor, and Tenant shall reimburse Landlord on demand for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease (including, but not limited to, collection costs and legal expenses), plus interest thereon at the Default Rate; and/or

(e) **Intentionally Deleted**.

(f) **Attorneys' Fees**. If either Landlord or Tenant brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, or appeal thereon, shall be entitled to its reasonable attorneys' fees and court costs to be paid by the losing party as fixed by the court in the same or separate suit, and whether or not such action is pursued to decision or judgment. The attorneys' fee award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees and court costs reasonably incurred. Landlord shall be entitled to reasonable attorneys' fees and all other costs and expenses incurred in the preparation and service of notices of default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such default.

19. **Payment by Tenant; Non-Waiver; Cumulative Remedies**.

(a) **Payment by Tenant**. Upon any Event of Default, Tenant shall pay to Landlord all costs incurred by Landlord (including court costs and reasonable attorneys' fees and expenses) in: (1) obtaining possession of the Premises; (2) removing and storing Tenant's or any other occupant's property; (3) repairing, restoring, altering, remodeling, or otherwise putting the Premises into condition acceptable to a new tenant; (4) performing Tenant's obligations which Tenant failed to perform; and (5) enforcing, or advising Landlord of, its rights, remedies, and recourses arising out of the Event of Default. To the full extent permitted by Law, Landlord and Tenant agree the federal and state courts of the state in which the Premises are located shall have exclusive jurisdiction over any matter relating to or arising from this Lease and the parties' rights and obligations under this Lease.

(b) **No Waiver**. Landlord's acceptance of Rent following an Event of Default shall not waive Landlord's rights regarding such Event of Default. No waiver by Landlord of any violation or breach of any of the terms contained herein shall waive Landlord's rights regarding any future violation of such term. Landlord's acceptance of any partial payment of Rent shall not waive Landlord's rights with regard to the remaining portion of the Rent that is due, regardless of any endorsement or other statement on any instrument delivered in payment of Rent or any writing delivered in connection therewith; accordingly, Landlord's acceptance of a partial payment of Rent shall not constitute an accord and satisfaction of the full amount of the Rent that is due.

(c) **Cumulative Remedies**. Any and all remedies set forth in this Lease: (1) shall be in addition to any and all other remedies Landlord may have at law or in equity; (2) shall be cumulative; and (3) may be pursued successively or concurrently as Landlord may elect. The exercise of any remedy by Landlord shall not be deemed an election of remedies or preclude Landlord from exercising any other remedies in the future.

(d) **No Designation**. To the extent allowed by Law, if Tenant is in arrears in payment of Rent, Tenant waives its right, if any, to designate the items to which any payments made by Tenant are to be credited, and Landlord may apply any payments made by Tenant to such items as Landlord sees fit, irrespective of any designation or request by Tenant as to the items to which any such payments shall be credited.

(e) **No Counterclaims**. To the extent allowed by Law, Tenant shall not interpose any counterclaim (other than a compulsory counterclaim) in any summary proceeding commenced by Landlord to recover possession of the Premises and shall not seek to consolidate such proceeding with any action which may have been or will be brought by Tenant or any other person or entity.

20. **Landlord's Lien**. In addition to any statutory landlord's lien now in effect or hereafter enacted, Tenant grants to Landlord, to secure performance of Tenant's obligations hereunder, a security interest in Tenant's owned furniture and non-confidential, non-proprietary owned equipment situated in or upon the Premises or the Project, and all proceeds thereof (except merchandise sold in the ordinary course of business) (collectively, the "**Collateral**"). Such personalty thus encumbered expressly excludes intellectual property, confidential or proprietary property, inventory, contract rights, accounts receivable and the proceeds thereof. Upon the occurrence of an Event of Default, Landlord may, in addition to all other remedies, without notice or demand except as provided below, exercise the rights afforded to a secured party under the Uniform Commercial Code of the state in which the Premises are located (the

"**UCC**"). To the extent the UCC requires Landlord to give to Tenant notice of any act or event and such notice cannot be validly waived before a default occurs, then five (5) days' prior written notice thereof shall be reasonable notice of the act or event. In order to perfect such security interest, Landlord may file any financing statement or other instrument necessary at Tenant's expense at the state and county Uniform Commercial Code filing offices. Within ten (10) days following written request therefor, Tenant shall execute financing statements to be filed of record to perfect Landlord's security interest in the Collateral. The landlord's lien shall survive the expiration or earlier termination of the Lease, until all obligations of Tenant have been fully performed.

Notwithstanding the foregoing, however, Landlord shall, at no cost to Landlord, when requested to do so by Tenant in writing, execute appropriate documents reasonably acceptable to Landlord to subordinate Landlord's statutory, contractual, common law and other lien rights in and to the Collateral to the lien rights of any lenders of Tenant or any third-party lien rights over the Collateral that predate the date of this Lease. Tenant shall promptly reimburse Landlord on demand for all of Landlord's costs and expenses, including, without limitation, attorneys' fees and costs, incurred in connection with its review, negotiation and execution of any such documentation.

21. **Surrender of Premises**. No act by Landlord shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid unless it is in writing and signed by Landlord. At the expiration or termination of this Lease, Tenant shall deliver to Landlord the Premises with all improvements located therein in good repair and condition, free of Hazardous Materials placed on the Premises during the Term by Tenant or a Tenant Party, broom-clean, reasonable wear and tear (and condemnation and Casualty damage, as to which Section 14 and Section 15 shall control) excepted, and shall deliver to Landlord all keys to the Premises. Provided that Tenant has performed all of its obligations hereunder, Tenant may remove all unattached trade fixtures, furniture, and personal property placed in the Premises or elsewhere in the Building by Tenant (but Tenant may not remove any such item which was paid for, in whole or in part, by Landlord or any wiring or cabling unless Landlord requires such removal). Additionally, at Landlord's option, Tenant shall (not later than ten (10) days after the expiration or earlier termination of the Lease) remove such alterations, additions (including stairs and bank vaults), improvements, trade fixtures, personal property, equipment, wiring, conduits, cabling and furniture (including Tenant's Off-Premises Equipment) as Landlord may request; provided, however, Tenant shall only be required to remove Alterations to the extent Landlord has required in writing delivered to Tenant concurrently with Landlord's approval of such Alterations. Tenant shall repair all damage caused by such removal. All items not so removed shall, at Landlord's option, be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord at Tenant's cost without notice to Tenant and without any obligation to account for such items; any such disposition shall not be considered a strict foreclosure or other exercise of Landlord's rights in respect of the security interest granted under Section 20. Notwithstanding anything to the contrary, in no event shall Tenant be obligated to remove or restore any of the improvements existing in the Premises as of the Commencement Date (including the Work, as defined in Exhibit D attached hereto). The provisions of this Section 21 shall survive the expiration or earlier termination of the Lease.

22. **Holding Over**. If Tenant fails to vacate the Premises at the end of the Term, then Tenant shall be a tenant at sufferance and, in addition to all other damages and remedies to which Landlord may be entitled for such holding over: (a) Tenant shall pay, in addition to the other Rent, Base Rent equal to one hundred fifty percent (150%) of the Base Rent payable during the last month of the Term; and (b) Tenant shall otherwise continue to be subject to all of Tenant's obligations under this Lease. The provisions of this Section 22 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at Law. If Tenant fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure, including any claims made by any succeeding tenant founded upon such failure to surrender, and any lost profits to Landlord resulting therefrom. Notwithstanding the foregoing, if Tenant holds over with Landlord's express written consent, then Tenant shall be a month-to-month tenant and Tenant shall pay, in addition to the other Rent, Base Rent equal to one hundred twenty five percent (125%) of the Base Rent payable during the last month of the Term.

23. **Certain Rights Reserved by Landlord**. Landlord shall have the following rights:

(a) **Building Operations**. To decorate and to make inspections, repairs, alterations, additions, changes, or improvements, whether structural or otherwise, in and about Phase One or Project, as applicable, or any part thereof; to enter upon the Premises (after giving Tenant reasonable notice thereof, which may be oral notice, except in cases of real or apparent emergency, in which case no notice shall be required) and, during the continuance of any such work, to temporarily close doors, entryways, public space, and corridors in the Building; to interrupt or temporarily suspend Building services and facilities; to change the name of the Building; and to change the arrangement and location of entrances or passageways, doors, and doorways, corridors, elevators, stairs, restrooms, or other public parts of the Building; provided, however Landlord shall use commercially reasonable efforts to not materially and adversely interfere with Tenant's use and enjoyment of the Premises or Common Areas. If in exercising its rights under this Section 23(a) (i) access to the Premises is prohibited or blocked or the Premises is not tenantable for the Permitted Use, (ii) Tenant ceases its business operations within the Premises as a result thereof, and (iii) such interference continues for three (3) days after written notice thereof from Tenant to Landlord, then Tenant shall have the right to abate Rent until access is restored or the Premises becomes tenantable, as applicable.

(b) **Access Control**. To take such reasonable access control measures as Landlord deems advisable (provided, however, that any such access control measures are for Landlord's own protection, and Tenant acknowledges that Landlord is not a guarantor of the security or safety of any Tenant Party and that all such security matters are the responsibility of Tenant); including evacuating the Building for cause, suspected cause, or for drill purposes; temporarily denying access to the Building; and closing the Building after Normal Business Hours and on Sundays and Holidays, subject, however, to Tenant's right to enter when the Building is closed after Normal Business Hours under such reasonable regulations as Landlord may prescribe from time to time;

(c) **Repairs and Maintenance**. After not less than forty-eight (48) hours prior written notice to Tenant (except in the event of emergency in which case no notice is required), to enter the Premises at all reasonable hours to perform Landlord's repair and maintenance obligations and rights under this Lease. Landlord shall make commercially reasonable efforts to avoid interrupting Tenant's business operations by performing non- emergency work outside of Normal Business Hours. If in exercising its rights under this Section 23(c) (i) access to the Premises is prohibited or blocked or the Premises is not tenantable for the Permitted Use, (ii) Tenant ceases its business operations within the Premises as a result thereof, and (iii) such interference continues for three (3) days after written notice thereof from Tenant to Landlord, then Tenant shall have the right to abate Rent until access is restored or the Premises becomes tenantable, as applicable.

(d) **Prospective Purchasers and Lenders**. After not less than forty-eight (48) hours prior written notice to Tenant, to enter the Premises at all reasonable hours to show the Premises to prospective purchasers or lenders; provided, Tenant shall have the right to have a Tenant representative accompany Landlord during such showing; and

(e) **Prospective Tenants**. After not less than forty-eight (48) hours prior written notice to Tenant, at any time during the last six (6) months of the Term (or earlier if Tenant has notified Landlord in writing that it does not desire to renew the Term), to enter the Premises at all reasonable hours to show the Premises to prospective tenants; provided, Tenant shall have the right to have a Tenant representative accompany Landlord during such showing.

(f) **Premises Access**. Landlord shall retain a key for all of the office doors for the Premises, excluding Tenant's vaults, safes, cabinets, desks, files or any rooms within the Premises designated by Tenant as "confidential" or "secure". Landlord shall have the right to use any and all means to open the doors to the Premises in an emergency in order to obtain entry thereto without liability to Tenant therefor. Any entry to the Premises by Landlord by any of the foregoing means, or otherwise, shall not be construed or deemed to be a forcible or unlawful entry into or a detainer of the Premises, or an eviction, partial eviction or constructive eviction of Tenant from the Premises or any portion thereof, and shall not relieve Tenant of its obligations hereunder.

24. **Intentionally Omitted**.

25. **Hazardous Materials**.

(a) During the term of this Lease, Tenant shall comply with all Environmental Laws (as defined in Section 25(i) below) applicable to the operation or use of the Premises, will cause all other persons occupying or using the Premises to comply with all such Environmental Laws, will immediately pay or cause to be paid all costs and expenses incurred by reason of such compliance.

(b) Tenant shall not generate, use, treat, store, handle, release or dispose of, or permit the generation, use, treatment, storage, handling, release or disposal of Hazardous Materials (as defined in Section 25(i) hereof) on the Premises, or the Project, or transport or permit the transportation of Hazardous Materials to or from the Premises or the Project except for limited quantities of household cleaning products and office supplies used or stored at the Premises and required in connection with the routine operation and maintenance of the Premises, and in compliance with all applicable Environmental Laws.

(c) At any time and from time to time during the term of this Lease, Landlord may perform, at Tenant's sole cost and expense, an environmental site assessment report concerning the Premises, prepared by an environmental consulting firm chosen by Landlord, indicating the presence or absence of Hazardous Materials caused or permitted by Tenant and the potential cost of any compliance, removal or remedial action in connection with any such Hazardous Materials on the Premises. Tenant shall grant and hereby grants to Landlord and its agents access to the Premises and specifically grants Landlord an irrevocable non-exclusive license to undertake such an assessment; and the cost of such assessment shall be immediately due and payable within thirty (30) days of receipt of an invoice therefor.

(d) Tenant will immediately advise Landlord in writing of any of the following:(1) any pending or threatened Environmental Claim (as defined in Section 25(i) below) against Tenant relating to the Premises or the Project; (2) any condition or occurrence on the Premises or the Project that (a) results in noncompliance by Tenant with any applicable Environmental Law, or (b) could reasonably be anticipated to form the basis of an Environmental Claim against Tenant or Landlord or the Premises; (3) any condition or occurrence on the Premises or any property adjoining the Premises that could reasonably be anticipated to cause the Premises to be subject to any restrictions on the ownership, occupancy, use or transferability of the Premises under any Environmental Law; and (4) the actual or anticipated taking of any removal or remedial action by Tenant in response to the actual or alleged presence of any Hazardous Material on the Premises or the Project. All such notices shall describe in reasonable detail the nature of the claim, investigation, condition, occurrence or removal or remedial action and Tenant's response thereto. In addition, Tenant will provide Landlord with copies of all communications regarding the Premises with any governmental agency relating to Environmental Laws, all such communications with any person relating to Environmental Claims, and such detailed reports of any such Environmental Claim as may reasonably be requested by Landlord.

(e) [Intentionally Omitted]

(f) Tenant agrees to indemnify, defend and hold harmless the Indemnitees from and against all obligations (including removal and remedial actions), losses, claims, suits, judgments, liabilities, penalties, damages (including consequential and punitive damages), costs and expenses (including reasonable attorneys' and consultants' fees and expenses) of any kind or nature whatsoever that may at any time be incurred by, imposed on or asserted against such Indemnitees directly or indirectly based on, or arising or resulting from (a) the actual or alleged presence of Hazardous Materials on the Project which is caused or permitted by Tenant or a Tenant Party and (b) any Environmental Claim relating in any way to Tenant's operation or use of the Premises (the "**Hazardous Materials Indemnified Matters**"). The provisions of this Section 25 shall survive the expiration or sooner termination of this Lease.

(g) To the extent that the undertaking in the preceding paragraph may be unenforceable because it is violative of any law or public policy, Tenant will contribute the maximum portion that it is permitted to pay and satisfy under applicable Law to the payment and satisfaction of all Hazardous Materials Indemnified Matters incurred by the Indemnitees.

(h) All sums paid and costs incurred by Landlord with respect to any Hazardous Materials Indemnified Matter shall bear interest at the Default Rate from the date so paid or incurred until reimbursed by Tenant, and all such sums and costs shall be immediately due and payable on demand.

(i) "**Hazardous Materials**" means: (i) petroleum or petroleum products, natural or synthetic gas, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, and radon gas; (ii) any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "contaminants" or "pollutants," or words of similar import, under any applicable Environmental Law; and (iii) any other substance exposure which is regulated by any governmental authority; (b) "**Environmental Law**" means any federal, state or local statute, law, rule, regulation, ordinance, code, policy or rule of common law now or hereafter in effect and in each case as amended, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the environment, health, safety or Hazardous Materials, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 et seq.; the Clean Water Act, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq.; the Atomic Energy Act, 42 U.S.C. §§ 2011 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq.; the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq.; (c) "**Environmental Claims**" means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of non-compliance or violation, investigations, proceedings, consent orders or consent agreements relating in any way to any Environmental Law or any Environmental Permit, including without limitation (i) any and all Environmental Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law and (ii) any and all Environmental Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment.

(j) Landlord agrees to indemnify, defend and hold harmless Tenant and any Tenant Party from and against all obligations (including removal and remedial actions), losses, claims, suits, judgments, liabilities, penalties, damages (including consequential and punitive damages), costs and expenses (including reasonable attorneys' and consultants' fees and expenses) of any kind or nature whatsoever that may at any time be incurred by, imposed on or asserted against Tenant or any Tenant Party directly or indirectly based on, or arising or resulting from the actual or alleged presence of Hazardous Materials on the Project which was not caused, permitted, exacerbated or contributed in any way by Tenant or a Tenant Party. The provisions of this Section 25 shall survive the expiration or sooner termination of this Lease.

26. **Miscellaneous**.

(a) **Landlord Transfer**. Landlord may transfer any portion of the Building and any of its rights under this Lease. If Landlord assigns its rights under this Lease, then Landlord shall thereby be released from any further obligations hereunder arising after the date of transfer, provided that the assignee assumes Landlord's obligations hereunder in writing.

(b) **Landlord's Liability**. The liability of Landlord (and its partners, shareholders or members) to Tenant (or any person or entity claiming by, through or under Tenant) for any default by Landlord under the terms of this Lease or any matter relating to or arising out of the occupancy or use of the Premises and/or other areas of Phase One or Project shall be limited to Tenant's actual direct, but not consequential (or other speculative), damages

therefor and shall be recoverable only from the interest of Landlord in the Building, and Landlord (and its partners, shareholders or members) shall not be personally liable for any deficiency. Additionally, to the extent allowed by Law, Tenant hereby waives any statutory lien it may have against Landlord or its assets, including without limitation, the Building.

(c) **Force Majeure**. Other than for Tenant's obligations under this Lease that can be performed by the payment of money (e.g., payment of Rent and maintenance of insurance) and Tenant's obligations pursuant to Exhibit D attached hereto, whenever a period of time is herein prescribed for action to be taken by either party hereto, such party shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, acts of terrorism, governmental laws, regulations, or Restrictions, or any other causes of any kind whatsoever which are beyond the control of such party (any such event being referred to herein as a "**Force Majeure Event**").

(d) **Brokerage**. Neither Landlord nor Tenant has dealt with any broker or agent in connection with the negotiation or execution of this Lease, other than as set forth in the Basic Lease Information. Tenant shall indemnify, defend and hold Landlord harmless from and against all costs, expenses, attorneys' fees, liens and other liability for commissions or other compensation claimed by any broker or agent claiming the same by, through, or under Tenant. The foregoing indemnity shall survive the expiration or earlier termination of the Lease. Landlord shall be solely responsible for payment of any broker fees or commissions due to the brokers set forth in the Basic Lease Information pursuant to the terms and conditions of a separate agreement.

(e) **Estoppel Certificates**. From time to time, Tenant shall furnish to any party designated by Landlord, within ten (10) business days after Landlord has made a request therefor, a certificate signed by Tenant confirming and containing such factual certifications and representations as to this Lease as Landlord may reasonably request. Unless otherwise required by Landlord's Mortgagee or a prospective purchaser or mortgagee of the Building, the initial form of estoppel certificate to be signed by Tenant is attached hereto as Exhibit G.

(f) **Notices**. All notices and other communications given pursuant to this Lease shall be in writing and shall be: (1) mailed by first class, United States Mail, postage prepaid, certified, with return receipt requested, and addressed to the parties hereto at the address specified in the Basic Lease Information; (2) hand delivered to the intended addressee; (3) sent by a nationally recognized overnight courier service; or (4) sent by facsimile transmission during Normal Business Hours followed by a copy of such notice sent in another manner permitted hereunder. All notices shall be effective upon the earlier to occur of actual receipt, one (1) Business Day following deposit with a nationally recognized overnight courier service, or three (3) days following deposit in the United States mail. The parties hereto may change their addresses by giving notice thereof to the other in conformity with this provision.

(g) **Severability**. If any clause or provision of this Lease is illegal, invalid, or unenforceable under present or future laws, then the remainder of this Lease shall not be affected thereby and in lieu of such clause or provision, there shall be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

(h) **Amendments; Binding Effect**. This Lease may not be amended except by instrument in writing signed by Landlord and Tenant. No provision of this Lease shall be

deemed to have been waived by Landlord unless such waiver is in writing signed by Landlord, and no custom or practice which may evolve between the parties in the administration of the terms hereof shall waive or diminish the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms hereof. The terms and conditions contained in this Lease shall inure to the benefit of and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided. This Lease is for the sole benefit of Landlord and Tenant, and, other than Landlord's Mortgagee, no third party shall be deemed a third party beneficiary hereof.

(i) **Quiet Enjoyment**. Provided Tenant has performed all of its obligations hereunder, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term, without hindrance from Landlord or any party claiming by, through, or under Landlord, but not otherwise, subject to the terms and conditions of this Lease.

(j) **No Merger**. There shall be no merger of the leasehold estate hereby created with the fee estate in the Premises or any part thereof if the same person acquires or holds, directly or indirectly, this Lease or any interest in this Lease and the fee estate in the leasehold Premises or any interest in such fee estate.

(k) **No Offer**. The submission of this Lease to Tenant shall not be construed as an offer, and Tenant shall not have any rights under this Lease unless Landlord executes a copy of this Lease and delivers it to Tenant.

(l) **Entire Agreement**. This Lease constitutes the entire agreement between Landlord and Tenant regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto. Except for those set forth in this Lease, no representations, warranties, or agreements have been made by Landlord or Tenant to the other with respect to this Lease or the obligations of Landlord or Tenant in connection therewith. The normal rule of construction that any ambiguities be resolved against the drafting party shall not apply to the interpretation of this Lease or any exhibits or amendments hereto.

(m) **Waiver of Jury Trial**. LANDLORD AND TENANT HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS LEASE OR ANY DOCUMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HEREWITH OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY ARISING OUT OF OR RELATED IN ANY MANNER WITH THE PREMISES (INCLUDING WITHOUT LIMITATION, ANY ACTION TO RESCIND OR CANCEL THIS LEASE OR ANY CLAIMS OR DEFENSES ASSERTING THAT THIS LEASE WAS FRAUDULENTLY INDUCED OR IS OTHERWISE VOID OR VOIDABLE). THIS WAIVER IS A MATERIAL INDUCEMENT FOR LANDLORD TO ENTER INTO AND ACCEPT THIS LEASE. Landlord and Tenant agree and intend that this paragraph constitutes a written consent to waiver of trial by jury within the meaning of California Code of Civil Procedure Section 631(d)(2). Each party hereby authorizes and empowers the other to file this Section 26(m) and this Lease with the clerk or judge of any court of competent jurisdiction as a written consent to waiver of jury trial.

(n) **Governing Law**. This Lease shall be governed by and construed in accordance with the laws of the state in which the Premises are located (the "**State**").

(o) **Recording**. Tenant shall not record this Lease or any memorandum of this Lease without the prior written consent of Landlord, which consent may be withheld or

denied in the sole and absolute discretion of Landlord, and any recordation by Tenant shall be a material breach of this Lease. Tenant grants to Landlord a power of attorney to execute and record a release releasing any such recorded instrument of record that was recorded without the prior written consent of Landlord, which power of attorney is coupled with an interest and is non-revocable during the Term.

(p) **Joint and Several Liability**. If Tenant is comprised of more than one (1) party, each such party shall be jointly and severally liable for Tenant's obligations under this Lease. All unperformed obligations of Tenant hereunder not fully performed at the end of the Term shall survive the end of the Term, including payment obligations with respect to Rent and all obligations concerning the condition and repair of the Premises.

(q) **Financial Reports**. Within fifteen (15) days after Landlord's request, Tenant will furnish Tenant's most recent audited financial statements (including any notes to them) to Landlord, or, if no such audited statements have been prepared, such other financial statements (and notes to them) as may have been prepared by an independent certified public accountant or, failing those, Tenant's internally prepared financial statements. If Tenant is a publicly traded corporation, Tenant may satisfy its obligations hereunder by providing to Landlord Tenant's most recent annual and quarterly reports. Tenant will discuss its financial statements with Landlord and, following the occurrence of an Event of Default hereunder. Landlord will not disclose any aspect of Tenant's financial statements that Tenant designates to Landlord as confidential except: (1) to Landlord's Mortgagee or prospective mortgagees or purchasers of the Building; (2) to Landlord's advisors and consultants; and (3) if required by court order. Tenant shall not be required to deliver the financial statements required under this Section 26(q) more than once in any twelve (12) month period unless requested by Landlord's Mortgagee or a prospective buyer or lender of the Building or an Event of Default occurs.

(r) **Landlord Fees**. Whenever Tenant requests Landlord to take any action not required of it hereunder or give any consent required or permitted under this Lease, Tenant will reimburse Landlord for Landlord's reasonable, out-of-pocket costs payable to third parties and incurred by Landlord in reviewing the proposed action or consent, including reasonable attorneys', engineers' or architects' fees, within thirty (30) days after Landlord's delivery to Tenant of a statement of such costs, subject to any express limitations or caps set forth in this Lease. Tenant will be obligated to make such reimbursement without regard to whether Landlord consents to any such proposed action.

(s) **Telecommunications**. Tenant and its telecommunications companies, including local exchange telecommunications companies and alternative access vendor services companies, shall have no right of access to and within the Building, for the installation and operation of telecommunications systems, including voice, video, data, Internet, and any other services provided over wire, fiber optic, microwave, wireless, and any other transmission systems ("**Telecommunications Services**"), for part or all of Tenant's telecommunications within the Building and from the Building to any other location without Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. All providers of Telecommunications Services shall be required to comply with the rules and regulations of the Building, applicable Laws and Landlord's policies and practices for the Building. Tenant acknowledges that Landlord shall not be required to provide or arrange for any Telecommunications Services and that Landlord shall have no liability to any Tenant Party in connection with the installation, operation or maintenance of Telecommunications Services or any equipment or facilities relating thereto. Tenant, at its cost and for its own account, shall be solely responsible for obtaining all Telecommunications Services.

(t) **Representations and Warranties**.

(i) Tenant represents and warrants to, and covenants with, Landlord that neither Tenant nor any of its respective constituent owners or affiliates currently are, or shall be at any time during the Term hereof, in violation of any laws relating to terrorism or money laundering (collectively, the "**Anti-Terrorism Laws**"), including without limitation Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (the "**Executive Order**") and/or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56) (the "**USA Patriot Act**").

(ii) Tenant covenants with Landlord that neither Tenant nor any of its respective constituent owners or affiliates is or shall be during the Term hereof a "Prohibited Person," which is defined as follows: (A) a person or entity that is listed in the Annex to, or is otherwise subject to, the provisions of the Executive Order; (B) a person or entity owned or controlled by, or acting for or on behalf of, any person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order; (C) a person or entity with whom Landlord is prohibited from dealing with or otherwise engaging in any transaction by any Anti- Terrorism Law, including without limitation the Executive Order and the USA Patriot Act; (D) a person or entity who commits, threatens or conspires to commit or support "terrorism" as defined in Section 3(d) of the Executive Order; (E) a person or entity that is named as a "specially designated national and blocked person" on the then-most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, **http://www.treas.gov/offices/eotffc/ofac/sdn/t11sdn.pdf,** or at any replacement website or other replacement official publication of such list; and (F) a person or entity who is affiliated with a person or entity listed in items (A) through (E), above.

(iii) At any time and from time-to-time during the Term, Tenant shall deliver to Landlord, within ten (10) days after receipt of a written request therefor, a written certification or such other evidence reasonably acceptable to Landlord evidencing and confirming Tenant's compliance with this Section 26(t).

(u) **Confidentiality**. Tenant acknowledges that the terms and conditions of this Lease are to remain confidential for Landlord's benefit, and may not be disclosed by Tenant to anyone, by any manner or means, directly or indirectly, without Landlord's prior written consent; provided, however, Landlord's consent shall not be required for Tenant to share such information with its attorneys, accountants, Affiliates or prospective assignees or subtenants. The consent by Landlord to any disclosures shall not be deemed to be a waiver on the part of Landlord of any prohibition against any future disclosure.

(v) **Authority**. Tenant (if a corporation, partnership or other business entity) hereby represents and warrants to Landlord that Tenant is a duly formed and existing entity qualified to do business in the state in which the Premises are located, that Tenant has full right and authority to execute and deliver this Lease, and that each person signing on behalf of Tenant is authorized to do so.

(w) **Adjacent Excavation**. If an excavation shall be made upon land adjacent to the Building, or shall be authorized to be made, Tenant shall afford the person causing (or authorized to cause) such excavation access to the Premises for the purpose of doing such work as said person shall deem necessary to preserve or protect the Building or any portion thereof from injury or damage and to support the same by proper foundation, in all events without any claim for damages or indemnity against Landlord or diminution or abatement of Rent.

(x) **On-Site Refueling**. If Tenant desires to refuel generators, forklifts, trucks or other vehicles or equipment at the Premises or Project, then prior to the commencement of any such refueling, Tenant shall comply with the provisions set forth in this Subsection 26(x). In no event shall any refueling occur outside and/or upon the Premises without Landlord's prior written consent, which consent may be withheld in Landlord's sole discretion. Tenant hereby covenants and agrees that it shall at all times comply with all applicable federal, state, and local laws, ordinances, rules and regulations, all court orders, governmental directives, and governmental orders and all interpretations of the foregoing, pertaining to secondary containment for fuel storage, distribution or transfer facilities (including without limitation the refueling of vehicles, equipment, generators, or other portable refueling operations), including but not limited to the Spill Prevention, Control, and Countermeasure Plan requirements contained in 40 CFR Part 112 ("**SPCC**").

(i) Tenant shall obtain and maintain, in addition to the insurance coverages required in Section 11(a), environmental clean-up and liability insurance in amounts of no less than $2,000,000 per occurrence and pollution liability insurance in amounts of no less than $2,000,000 per occurrence, naming Landlord, Landlord's property management company and Invesco as an additional insured and otherwise complying with the requirements of Section 11(a). The foregoing coverages are in addition to the coverages required by any contractors or subcontractors performing work at the Project, as more particularly described in Section 8(b)(iii). A copy of the certificates of insurance shall be provided to Landlord prior to commencement of any refueling activities.

(ii) Tenant shall provide Landlord with a formal Spill Management Plan (the "**SMP**") for Landlord's review and written approval. Such SMP must include at a minimum: (a) the types and amounts of fuel that will be used and/or stored at the Premises and Project; (b) the types and number of equipment and/or vehicles that will be refueled; (c) the name(s) of the contractor(s) which will be conducting the refueling and a copy of the contract with such contractor(s); (d) an insurance certificate evidencing that each such contractor maintains, in addition to the coverages described in Section 8(b)(iii), Contractors Pollution Liability insurance on an occurrence basis, in amounts of no less than $2,000,000 per occurrence, naming Tenant, Landlord, Landlord's property management company and Invesco as additional insureds; (e) the days and times when such refueling will occur, and the location within the Premises or Project designated for refueling activities; (f) a list of the containment supplies that Tenant will have on-hand at all times; and (g) a contingency plan for spills. Tenant shall make such changes to the SMP as may be required by Landlord. No fueling activities shall occur until Landlord has approved Tenant's SMP in writing. Landlord's approval of the SMP shall not be a representation or warranty of Landlord that the SMP is adequate for any use or complies with the SPCC or any other Law, but shall merely be the consent of Landlord thereto. Tenant shall comply with, and shall cause each of its contractor's to comply with, the final SMP that has been approved by Landlord. Tenant shall immediately notify Landlord in writing in the event of any spill at the Premises or Project related to the activities of Tenant or its contractors.

(iii) Fueling shall occur only over diesel resistive substrate (such as concrete) with methods of controlling run-off in place should a release occur, such control being in accordance with the SPCC and no less than the Landlord-approved SMP. If refueling at the Premises or Project could jeopardize or potentially invalidate a stormwater permit for the Premises or Project, Tenant shall perform such work as may be required (including without limitation installing curbing around fueling operations at Tenant's cost, in a location and in accordance with plans approved in advance in writing by Landlord), such that there is no adverse effect to such permit and said permit remains valid and in good standing.

(iv) Any and all obligations (including removal and remedial actions), losses, claims, suits, judgments, liabilities, penalties, damages (including consequential and punitive damages), costs and expenses (including reasonable attorneys' and consultants' fees and expenses) of any kind or nature whatsoever that may at any time be incurred by, imposed on or asserted against Landlord or the Indemnitees in connection with refueling operations at the Premises or Project shall be deemed Hazardous Materials Indemnified Matters, as defined in Section 25(f).

(y) **List of Exhibits**. All exhibits and attachments attached hereto are incorporated herein by this reference.

Exhibit A -	Outline of Premises
Exhibit B-1 -	Phase One Land
Exhibit B-2 -	Phase Two Land
Exhibit B-3 -	Project Land
Exhibit C -	Additional Rent, Taxes and Insurance
Exhibit D -	Tenant Finish-Work
Exhibit E -	Building Rules and Regulations
Exhibit F -	Form of Confirmation of Commencement Date Letter
Exhibit G -	Form of Tenant Estoppel Certificate
Exhibit H -	Renewal Option
Exhibit I -	Intentionally Deleted
Exhibit J -	Moisture and Mold Control Instructions
Exhibit K -	Parking Rules and Regulations

27. **Other Provisions**.

(a) **Termination Option**. In the event that Landlord and Tenant enter into a new lease agreement for another space within the Project during the Term hereof, which new space is at least fifty percent (50%) larger in rentable square footage than the Premises described herein, Tenant shall have the right to terminate this Lease upon thirty (30) days' prior written notice to Landlord.

(b) **Tenant Access**. Subject to the terms and conditions set forth in this Lease, Tenant shall have access to the Project, Building, Premises and parking twenty-four (24) hours per day, three hundred sixty-five (365) days per year. Landlord grants Tenant, its agents, employees, contractors, subcontractors and vendors the right to enter the Premises for a period of one (1) month prior to the Commencement Date (the "**Fixturing Period**") for the purpose of installing its furniture, fixtures and equipment, provided such access does not interfere with Landlord's work set forth in the Work Letter in Exhibit D attached hereto. Tenant shall have no

obligation to pay Rent during the Fixturing Period and Landlord shall use good faith efforts to provide Tenant notice (which may be given orally or via e-mail) two (2) weeks prior to Landlord's anticipated commencement of the Fixturing Period to provide Tenant with time to mobilize in connection therewith.

(c) **Security**. Subject to Landlord's reasonable approval, Tenant shall be entitled, at its sole cost and expense and in accordance with the other terms and conditions of this Lease, to install its own security system for the Premises, which shall be located within the Premises and which shall not unreasonably interfere with the Building's Systems; provided, however, that Tenant shall have the right to interface its security systems with the Building security panel at Tenant's sole cost and expense.

(d) **No Relocation**. Landlord shall have no right to relocate Tenant to another Premises during the Term (or any extensions thereof).

(e) **Supplemental HVAC**. As of the date hereof, there is a supplemental HVAC unit in the server room within the Premises (the "Supplemental HVAC"). Landlord shall deliver the Supplemental HVAC to Tenant on the Commencement Date in good working order. Within thirty (30) days of the Commencement Date, Tenant shall inform Landlord in writing if Tenant intends on using the Supplemental HVAC. Should Tenant so inform Landlord, Tenant shall be responsible, at its cost and expense, to maintain and repair the Supplemental HVAC in good working order with a servicer that is reasonably approved by Landlord and Landlord shall have no responsibility therefor.

28. **Disclaimer**. LANDLORD AND TENANT EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE, AND TENANT'S OBLIGATION TO PAY RENT HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE PREMISES OR THE PERFORMANCE BY LANDLORD OF ITS OBLIGATIONS HEREUNDER, AND, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, TENANT SHALL CONTINUE TO PAY THE RENT, WITHOUT ABATEMENT, DEMAND, SETOFF OR DEDUCTION, NOTWITHSTANDING ANY BREACH BY LANDLORD OF ITS DUTIES OR OBLIGATIONS HEREUNDER, WHETHER EXPRESS OR IMPLIED.

This Lease is executed on the respective dates set forth below, but for reference purposes, this Lease shall be dated as of the date first above written. If the execution date is left blank, this Lease shall be deemed executed as of the date first written above.

LANDLORD: WESTLAKE PARK PLACE, INC., a Delaware corporation

By: /s/ Cain Kirk
Name: Cain Kirk
Title: Vice President
Execution Date: 1/31/19

TENANT ARCUTIS, INC., a Delaware corporation

By: /s/ Frank Watanabe
Name: Frank Watanabe
Title: President and CEO
Execution Date: 17 Jan 19

EXHIBIT A

OUTLINE OF PREMISES

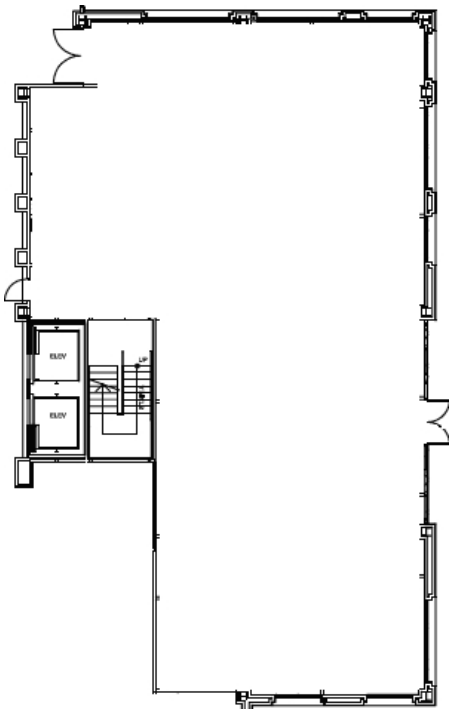

EXHIBIT B-1

DESCRIPTION OF THE PHASE ONE LAND

Unit Nos. 1, 2, 6, 7, and 8, Westlake Park Place, according to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Westlake Park Place, recorded on June 18, 2013 as Instrument No. 00109053, in the official records of Ventura County, California, and as shown and described in the Condominium Plan for Westlake Park Place, recorded on June 18, 2013 as Instrument No. 0010909054, in the official records of Ventura County, California, together with an undivided five-eighths (5/8th) fee simple interest as tenant-in- common in and to the "Common Area" as described in said declaration and depicted on said condominium plan.

EXHIBIT B-2

DESCRIPTION OF THE PHASE TWO LAND

Unit Nos. 3, 4, and 5, Westlake Park Place, according to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Westlake Park Place, recorded on June 18, 2013 as Instrument No. 00109053, in the official records of Ventura County, California, and as shown and described in the Condominium Plan for Westlake Park Place, recorded on June 18, 2013 as Instrument No. 0010909054, in the official records of Ventura County, California, together with an undivided three-eighths (3/8th) fee simple interest as tenant-in- common in and to the "Common Area" as described in said declaration and depicted on said condominium plan.

EXHIBIT B-3

DESCRIPTION OF THE PROJECT LAND

Unit Nos. 1, 2, 3, 4, 5, 6, 7, and 8, Westlake Park Place, according to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Westlake Park Place, recorded on June 18, 2013 as Instrument No. 00109053, in the official records of Ventura County, California, and as shown and described in the Condominium Plan for Westlake Park Place, recorded on June 18, 2013 as Instrument No. 0010909054, in the official records of Ventura County, California, together with an undivided eight-eighths (8/8th) fee simple interest as tenant-in-common in and to the "Common Area" as described in said declaration and depicted on said condominium plan.

EXHIBIT C

ADDITIONAL RENT, TAXES, AND INSURANCE

1. **Additional Rent**. Tenant shall pay to Landlord the amount (per each rentable square foot in the Premises) ("**Additional Rent**") by which the annual Operating Costs (defined below) per rentable square foot in the Project for each year of the Term exceed the annual Operating Costs per rentable square foot in the Project for calendar year 2019 (the "**Base Year**"). Landlord may make a good faith estimate of the Additional Rent to be due by Tenant for any calendar year or part thereof during the Term. During each calendar year or partial calendar year of the Term after the first (1st) anniversary of the Commencement Date, Tenant shall pay to Landlord, in advance concurrently with each monthly installment of Base Rent, an amount equal to the estimated Additional Rent for such calendar year or part thereof divided by the number of months therein. From time to time (but no more frequently than twice in any calendar year), Landlord may estimate and re-estimate the Additional Rent to be due by Tenant and deliver a copy of the estimate or re-estimate to Tenant. Thereafter, the monthly installments of Additional Rent payable by Tenant shall be appropriately adjusted in accordance with the estimations so that, by the end of the calendar year in question, Tenant shall have paid all of the Additional Rent as estimated by Landlord. Any amounts paid based on such an estimate shall be subject to adjustment as herein provided when actual Operating Costs are available for each calendar year. Operating Costs for the Base Year, for the purpose of comparisons of the Base Year with subsequent years only, shall be calculated so as to not include market-wide labor-rate increases due to extraordinary circumstances, including boycotts and strikes; utility rate increases due to extraordinary circumstances, including conservation surcharges, boycotts, embargos or other shortages; or amortized costs relating to capital improvements.

2. **Operating Costs**. The term "**Operating Costs**" shall mean all expenses and disbursements (subject to the limitations set forth below) that Landlord incurs in connection with the ownership, operation, and maintenance of Phase One or Project, as applicable, determined in accordance with sound accounting principles consistently applied, including the following costs: (a) wages and salaries of all on-site employees engaged in the management, operation, maintenance or repair of Phase One or Project, as applicable, or the control of access thereto (in each case together with Landlord's reasonable allocation of expenses of off-site employees who perform a portion of their services in connection with the operation, maintenance or repair of Phase One or Project, as applicable, or the control of access thereto), including taxes, insurance and benefits relating thereto; (b) all supplies and materials used in the operation, maintenance, repair and replacement of Phase One or Project, as applicable, or the control of access thereto; (c) costs for improvements made to Phase One or Project, as applicable which, although capital in nature, are (i) expected to reduce the normal operating costs (including all utility costs) of Phase One or Project, as applicable, as amortized using a commercially reasonable interest rate over the time period reasonably estimated by Landlord to recover the costs thereof taking into consideration the anticipated cost savings, as determined by Landlord using its good faith, commercially reasonable judgment, as well as (ii) capital improvements made in order to comply with any Law hereafter promulgated by any governmental authority or any interpretation hereafter rendered with respect to any existing Law, as amortized using a commercially reasonable interest rate over the useful economic life of such improvements as determined by Landlord in its reasonable discretion, as well as (iii) capital improvements made to improve the health, safety and welfare of the Building and its occupants, as amortized using a commercially reasonable interest rate over the useful economic life of such improvements as

determined by Landlord in its reasonable discretion; (d) cost of all utilities (provided, however, any fees collected from tenants within the Project for after-hours HVAC or above standard utility usage shall be applied to such costs); (e) repairs, replacements, and general maintenance of Phase One or Project, as applicable; (f) fair market rental and other costs with respect to the management office for the Phase One or Project, if any; and (g) service, maintenance and management contracts with independent contractors for the operation, maintenance, management, repair or replacement of Phase One or Project, as applicable, or the control of access thereto. Operating Costs shall be equitably allocated among the Building and the other buildings within the Project, as reasonably determined by Landlord.

Operating Costs shall not include costs for: (1) repair, replacements and general maintenance paid by proceeds of insurance or by Tenant or other third parties; (2) interest, amortization or other payments on loans to Landlord; (3) depreciation; (4) leasing commissions; (5) legal expenses for services, other than those that benefit Phase One or Project tenants, as applicable (e.g., tax disputes); (6) renovating or otherwise improving leased premises of Phase One or Project, as applicable or vacant space in Phase One or Project, as applicable; (7) Taxes and Insurance which are paid separately pursuant to Sections 3 and 4 below; and (8) federal income taxes imposed on or measured by the income of Landlord from the operation of Phase One or Project, as applicable.

3. **Taxes**.

Tenant shall also pay Tenant's Proportionate Share of any increase in Taxes for each year and partial year falling within the Term over the Taxes for the Base Year. Tenant shall pay Tenant's Proportionate Share of Taxes in the same manner as provided above for Tenant's Proportionate Share of Operating Costs. "**Taxes**" shall mean taxes, assessments, and governmental charges or fees whether federal, state, county or municipal, and whether they be by taxing districts or authorities presently taxing or by others, subsequently created or otherwise, and any other taxes and assessments (including non-governmental assessments for common charges under a restrictive covenant or other private agreement that are not treated as part of Operating Costs) now or hereafter attributable to Phase One or Project, as applicable (or its operation), excluding, however, penalties and interest thereon and federal and state taxes on income (if the present method of taxation changes so that in lieu of or in addition to the whole or any part of any Taxes, there is levied on Landlord a capital tax directly on the rents received therefrom or a franchise tax, assessment, or charge based, in whole or in part, upon such rents for Phase One or Project, as applicable, then all such taxes, assessments, or charges, or the part thereof so based, shall be deemed to be included within the term "Taxes" for purposes hereof). Taxes shall include the costs of consultants retained in an effort to lower taxes and all costs incurred in disputing any taxes or in seeking to lower the tax valuation of the Project. For property tax purposes, to the extent allowed by Law, Tenant waives all rights to protest or appeal the appraised value of the Premises, as well as Phase One and the Project, and all rights to receive notices of reappraisement.

4. **Insurance**.

Tenant shall also pay Tenant's Proportionate Share of any increases in Insurance Costs for each year and partial year falling within the Term over the Insurance Costs for the Base Year. Tenant shall pay Tenant's Proportionate Share of Insurance Costs in the same manner as provided above for Tenant's Proportionate Share of Operating Costs. "**Insurance Costs**" shall

mean the costs incurred by Landlord for property, liability and other insurance coverages carried by Landlord, including without limitation deductibles and risk retention programs and an allocation of a portion of the cost of blanket insurance policies maintained by Landlord and/or its affiliates.

5. **Operating Costs and Tax and Insurance Statement**. By May 1 of each calendar year, or as soon thereafter as reasonably practicable, Landlord shall furnish to Tenant a statement of Operating Costs for the previous year, adjusted as provided in Section 6 of this Exhibit, and of the Taxes and Insurance Costs for the previous year (the "**Operating Costs, Tax and Insurance Costs Statement**"). If Tenant's estimated payments of Operating Costs or Taxes or Insurance Costs under this Exhibit C for the year covered by the Operating Costs, Tax and Insurance Costs Statement exceed Tenant's share of such items as indicated in the Operating Costs, Tax and Insurance Costs Statement, then Landlord shall promptly credit or reimburse Tenant for such excess; likewise, if Tenant's estimated payments of Operating Costs, Taxes or Insurance Costs under this Exhibit C for such year are less than Tenant's share of such items as indicated in the Operating Costs, Tax and Insurance Costs Statement, then Tenant shall promptly pay Landlord such deficiency, notwithstanding that the Term has expired and Tenant has vacated the Premises. Landlord shall have the same remedies for a default in the payment of Tenant's Proportionate Share of Operating Costs, Taxes and Insurance Costs as for a default in the payment of Base Rent.

6. **Gross-Up**. With respect to any calendar year or partial calendar year in which the Phase One or Project, as applicable, is not occupied to the extent of 95% of the rentable area thereof, or Landlord is not supplying services to 95% of the rentable area thereof, the Operating Costs for such period shall, for the purposes hereof, be increased to the amount which would have been incurred had the Phase One or Project, as applicable, been occupied to the extent of 95% of the rentable area thereof and Landlord had been supplying services to 95% of the rentable area thereof.

7. **Base Year Adjustments**. Operating Costs and Insurance Costs for the Base Year shall be adjusted as follows:

(1) if, in any calendar year following the Base Year, (a "**Subsequent Year**"), a new type of expense item (e.g. earthquake insurance) is included in Operating Costs or Insurance Costs which was not included in the Base Year Operating Costs or Insurance Costs, as applicable, then the cost of such new type of item at the time of the Base Year (as reasonably determined by Landlord) shall be added to the Base Year Operating Costs or Insurance Costs, as applicable for purposes of determining the Operating Costs or Insurance Costs, as applicable, payable under this Lease for such Subsequent Year; provided, however, in the event that the new line item is initially incurred for only a partial calendar year, the cost of such new line item shall be grossed up to represent a full calendar year for both the Base Year and the expense year in which the new line item first is incurred). During each Subsequent Year, the same amount shall continue to be included in the computation of Operating Costs or Insurance Costs, as applicable, for the Base Year, resulting in each such Subsequent Year Operating Costs or Insurance Costs, as applicable, only including the increase in the cost of such new item over the Base Year, as so adjusted. However, if in any Subsequent Year thereafter, such new item is not included in Operating Costs, no such addition shall be made to Base Year Operating Costs or Insurance Costs, as applicable. Conversely, as reasonably determined by Landlord, when an expense item that was originally included in the Base Year Operating Costs or Insurance Costs,

as applicable, is, in any Subsequent Year, no longer included in Operating Costs or Insurance Costs, as applicable, then the cost of such item shall be deleted from the Base Year Operating Costs or Insurance Costs, as applicable, for purposes of determining the Operating Costs or Insurance Costs, as applicable, payable under this Lease for such Subsequent Year. The same amount shall continue to be deleted from the Base Year Operating Costs or Insurance Costs, as applicable, for each Subsequent Year thereafter that the item is not included.

8. **Tenant Audit Rights**. Provided that there are no uncured Events of Default then existing, within sixty (60) days after delivery of an Operating Costs, Tax and Insurance Costs Statement by Tenant ("**Review Period**"), if Tenant disputes the amount set forth in Landlord's Operating Costs, Tax and Insurance Costs Statement, then Tenant may engage an independent certified public accountant (which accountant is a member of a nationally or regionally recognized accounting firm of good repute and is not paid on a contingency fee basis) and such firm may, after reasonable written notice from Tenant to Landlord and at reasonable times (which shall be deemed to include normal business hours), inspect Landlord's records at Landlord's offices; provided, however, that notwithstanding any such timely objection, dispute, inspection, and/or audit, and as a condition precedent to Tenant's exercise of its right of objection, dispute, inspection and/or audit as set forth in this Section 8, Tenant shall not be permitted to withhold payment of, and Tenant shall timely pay to Landlord, the full amounts as required by the Lease in accordance with such Landlord's Operating Costs, Tax and Insurance Costs Statement. However, such payment may be made under protest pending the outcome of any audit which may be performed by the accountant firm as described below. Notwithstanding the foregoing, Tenant shall only have the right to review Landlord's records one (1) time during any twelve (12) month period. No subtenant shall have any right to conduct an audit, and no assignee shall conduct an audit for any period during which such assignee was not in possession of the Premises. Tenant's failure to dispute and/or complete the audit of the amounts set forth in Landlord's Operating Costs, Tax and Insurance Costs Statement within the Review Period shall be deemed to be Tenant's approval of such Landlord's Operating Costs, Tax and Insurance Costs Statement and Tenant, thereafter, waives the right or ability to dispute, review and/or audit the amounts set forth in such Landlord's Operating Costs, Tax and Insurance Costs Statement. If the audit permitted hereunder proves that Tenant paid more than its share of the Operating Costs, Taxes or Insurance Costs, as applicable, by three percent (3%) or more, then the reasonable cost of the audit shall be paid for by Landlord, up to $5,000. Within thirty (30) days following the parties' receipt of such certification, the parties shall make such appropriate payments or reimbursements, as the case may be, to each other, as are determined to be owing pursuant to such audit. Tenant agrees to keep, and to cause all of Tenant's employees, advisors, agents and consultants to keep, all of Landlord's books and records and the audit, and all information pertaining thereto and the results thereof, strictly confidential, and in connection therewith, Tenant shall cause such accounts, employees, advisors, agents and consultants to execute such reasonable confidentiality agreements as Landlord may require prior to conducting any such inspections and/or audits.

EXHIBIT D

TENANT FINISH-WORK: ALLOWANCE
(Landlord Performs the Work)

1. Acceptance of Premises. Except as set forth in this Exhibit, Tenant accepts the Premises in their "AS-IS" condition on the date that this Lease is entered into.

2. Space Plans. On or before the execution of the Lease, Landlord has prepared and the parties have agreed upon a space plan dated December 12, 2018, depicting improvements to be installed in the Premises and which is attached hereto as Exhibit D-1 (the "**Space Plan**"). Tenant acknowledges and agrees that it shall be responsible for the cost of such Space Plan which shall be due and payable to Landlord upon demand, provided, however, Landlord agrees to contribute fifteen cents ($0.15) per RSF of the Premises over and above the Construction Allowance to the cost of preparing such Space Plan.

3. Working Drawings.

(a) Preparation and Delivery. On or before the date which is fifteen (15) days following the date on which this Lease is fully executed by both Landlord and Tenant, Landlord shall cause to be prepared final working drawings of all improvements to be installed in the Premises and deliver the same to Tenant for its review and approval (which approval shall not be unreasonably withheld, delayed or conditioned).

(b) Approval Process. Tenant shall notify Landlord whether it approves of the submitted working drawings within three (3) Business Days after Landlord's submission thereof. If Tenant disapproves of such working drawings, then Tenant shall notify Landlord thereof specifying in reasonable detail the reasons for such disapproval, in which case Landlord shall, within three (3) Business Days after such notice, revise such working drawings in accordance with Tenant's objections and submit the revised working drawings to Tenant for its review and approval. Tenant shall notify Landlord in writing whether it approves of the resubmitted working drawings within one (1) Business Day after its receipt thereof. This process shall be repeated until the working drawings have been finally approved by Landlord and Tenant. If Tenant fails to notify Landlord that it disapproves of the initial working drawings within three (3) Business Days (or, in the case of resubmitted working drawings, within one (1) Business Day) after the submission thereof, then Tenant shall be deemed to have approved the working drawings in question. Any delay caused by Tenant's unreasonable withholding of its consent or delay in giving its written approval as to such working drawings shall constitute a Tenant Delay Day (defined below). Each day after the time period set forth above for Tenant to review and approve or to disapprove (specifying in reasonable detail the reasons for such disapproval) the working drawings which Tenant does not so approve or disapprove, as applicable, shall constitute a Tenant Delay Day.

(c) Landlord's Approval; Performance of Work. If any of Tenant's proposed construction work will affect the Building's Structure or any of the Building's Systems, then the working drawings pertaining thereto must be approved by Landlord's engineer. Landlord's approval of such working drawings shall not be unreasonably withheld, provided that (1) they comply with all Laws, (2) the improvements depicted thereon do not adversely affect (in the reasonable discretion of Landlord) the Building's Structure or the Building's Systems

(including the Building's restrooms or mechanical rooms), the exterior appearance of the Building, or the appearance of the Building's Common Areas or elevator lobby areas (if any), (3) such working drawings are sufficiently detailed to allow construction of the improvements in a good and workmanlike manner, and (4) the improvements depicted thereon conform to the rules and regulations promulgated from time to time by Landlord for the construction of tenant improvements (a copy of which has been delivered to Tenant). As used herein, "**Working Drawings**" shall mean the final working drawings approved by Landlord, as amended from time to time by any approved changes thereto, and "**Work**" shall mean all improvements to be constructed in accordance with and as indicated on the Working Drawings, together with the work listed below and any work required by governmental authorities to be made to other areas of the Building as a result of the improvements indicated by the Working Drawings. Landlord's approval of the Working Drawings shall not be a representation or warranty of Landlord that such drawings are adequate for any use or comply with any Law, but shall merely be the consent of Landlord thereto. Tenant shall, at Landlord's request, sign the Working Drawings to evidence its review and approval thereof. After the Working Drawings have been approved, Landlord shall cause the Work to be performed in substantial accordance with the Working Drawings.

"**Work**" shall include, without limitation, all of the following which shall be consistent with the Space Plan:

– New carpet and/or hard surface (vinyl or tile) flooring (with base board) throughout the Premises;

– New paint (two colors to be selected by Tenant);

– Ceiling and lighting to be in good working order (replace any broken or stained ceiling tiles);

– Construction an (open) break room with upper and lower cabinetry (with finishes subject to Tenant's reasonable approval), sink with coffee machine and a microwave;

– Construct one office near the entrance;

– Subdivide the large conference room into a smaller conference room and an office towards the rear portion of the space; and

– Convert small storage room into a phone room with glass insert.

4. Bidding of Work. Prior to commencing the Work, Landlord shall competitively bid the Work to three (3) contractors approved by Landlord. If the estimated Total Construction Costs (defined in Section 8 below) are expected to exceed the Construction Allowance (defined in Section 9 below), Tenant shall be allowed to review the submitted bids from such contractors to value engineer any of Tenant's requested alterations. In such case, Tenant shall notify Landlord of any items in the Working Drawings that Tenant desires to change within two (2) Business Days after Landlord's submission thereof to Tenant. If Tenant fails to notify Landlord of its election within such two (2) Business Day period, Tenant shall be deemed to have approved the bids. Within five (5) Business Days following Landlord's submission to Tenant of the initial construction bids under the foregoing provisions (if applicable), Tenant shall have completed all of the following items: (a) finalized with Landlord's representative and the proposed contractor,

the pricing of any requested revisions to the bids for the Work, and (b) approved in writing any overage in the Total Construction Costs in excess of the Construction Allowance, failing which each day after such five (5) Business Day period shall constitute a Tenant Delay Day.

5. Change Orders. Tenant may initiate changes in the Work. Each such change must receive the prior written approval of Landlord, such approval not to be unreasonably withheld or delayed; however, (1) if such requested change would adversely affect (in the reasonable discretion of Landlord) (a) the Building's Structure or the Building's Systems (including the Building's restrooms or mechanical rooms), (b) the exterior appearance of the Building, or (c) the appearance of the Building's Common Areas or elevator lobby areas (if any), or (2) if any such requested change might delay the Commencement Date, Landlord may withhold its consent in its sole and absolute discretion. Tenant shall, upon completion of the Work, furnish Landlord with an accurate architectural "as-built" plan of the Work as constructed, which plan shall be incorporated into this Exhibit D by this reference for all purposes. If Tenant requests any changes to the Work described in the Space Plans or the Working Drawings, then such increased costs and any additional design costs incurred in connection therewith as the result of any such change shall be added to the Total Construction Costs.

6. Definitions. As used herein, a "**Tenant Delay Day**" shall mean each day of delay in the performance of the Work that occurs (a) because of Tenant's failure to timely deliver or approve any required documentation such as the Space Plans or Working Drawings, (b) because Tenant fails to timely furnish any information or deliver or approve any required documents such as the Space Plans, Working Drawings (whether preliminary, interim revisions or final), pricing estimates, construction bids, and the like, (c) because of any change by Tenant to the Space Plans or Working Drawings, (d) because Tenant fails to attend any meeting with Landlord, the Architect, any design professional, or any contractor, or their respective employees or representatives, as may be required or scheduled hereunder or otherwise necessary in connection with the preparation or completion of any construction documents, such as the Space Plans, Working Drawings, or in connection with the performance of the Work (provided Tenant has received not less than forty-eight (48) hours prior notice thereof, which may be given orally or via e-mail), (e) because of any specification by Tenant of materials or installations in addition to or other than Landlord's standard finish-out materials, or (f) because a Tenant Party otherwise delays completion of the Work (each such instance, being referred to herein as a "**Tenant Delay**"). As used herein "**Substantial Completion**," "**Substantially Completed**," and any derivations thereof mean the Work in the Premises has been performed in substantial accordance with the Working Drawings, as reasonably determined by Landlord (other than any details of construction, mechanical adjustment or other similar matter, the noncompletion of which does not materially interfere with Tenant's use or occupancy of the Premises).

7. Walk-Through; Punchlist. When Landlord considers the Work in the Premises to be Substantially Completed, Landlord will notify Tenant and within three (3) Business Days thereafter, Landlord's representative and Tenant's representative shall conduct a walk-through of the Premises and identify any necessary touch-up work, repairs and minor completion items that are necessary for final completion of the Work. Neither Landlord's representative nor Tenant's representative shall unreasonably withhold his or her agreement on punchlist items. Landlord shall use reasonable efforts to cause the contractor performing the Work to complete all punchlist items within thirty (30) days after agreement thereon; however, Landlord shall not be obligated to engage overtime labor in order to complete such items.

8. **Excess Costs**. The entire cost of performing the Work (including design of the Work and preparation of the Working Drawings, costs of construction labor and materials, electrical usage during construction, additional janitorial services, general tenant signage, related taxes and insurance costs, and the construction supervision fee referenced in Section 10 of this Exhibit, all of which costs are herein collectively called the "**Total Construction Costs**") in excess of the Construction Allowance (hereinafter defined) shall be paid by Tenant. Upon approval of the Working Drawings and selection of a contractor, Tenant shall promptly (a) execute a work order agreement prepared by Landlord which identifies such drawings and itemizes the Total Construction Costs and sets forth the Construction Allowance, and (b) pay to Landlord fifty percent (50%) of the amount by which Total Construction Costs exceed the Construction Allowance (the "**Advance Excess Construction Cost Payment**"). If Tenant exercises its right to terminate this Lease pursuant to Section 3(a), then Landlord shall promptly reimburse Tenant fifty percent (50%) of the Advance Excess Construction Cost Payment. Upon Substantial Completion of the Work and before Tenant occupies the Premises to conduct business therein, Tenant shall pay to Landlord an amount equal to the Total Construction Costs (as adjusted for any approved changes to the Work), less (1) the amount of the advance payment already made by Tenant, and (2) the amount of the Construction Allowance. In the event of default of payment of such excess costs, Landlord (in addition to all other remedies) shall have the same rights as for an Event of Default under the Lease.

9. **Construction Allowance**. Landlord shall provide to Tenant a construction allowance not to exceed $7.00 per rentable square foot in the Premises (the "**Construction Allowance**") to be applied toward the Total Construction Costs, as adjusted for any changes to the Work. The Construction Allowance shall not be disbursed to Tenant in cash, but shall be applied by Landlord to the payment of the Total Construction Costs, if, as, and when the cost of the Work is actually incurred and paid by Landlord. The Construction Allowance must be used within six (6) months following the Commencement Date or shall be deemed forfeited with no further obligation by Landlord with respect thereto.

10. **Construction Management**. Landlord or its Affiliate or agent shall supervise the Work, make disbursements required to be made to the contractor, and act as a liaison between the contractor and Tenant and coordinate the relationship between the Work, the Building and the Building's Systems. In consideration for Landlord's construction supervision services, Tenant shall pay to Landlord a construction supervision fee equal to five percent (5%) of the Total Construction Costs (excluding the construction supervision fee).

11. Construction Representatives. Landlord's and Tenant's representatives for coordination of construction and approval of change orders will be as follows, provided that either party may change its representative upon written notice to the other:

Landlord's Representative:	CBRE c/o Brad Heath 24303 Town Center Drive, Suite 160 Valencia, CA 91355 Telephone: 661-255-0765 Telecopy: 661-255-9762
Tenant's Representative:	Arcutis, Inc. Attn: Frank Watanabe, President & CEO 70 Willow Road, Suite 200 Menlo Park, CA 94025 Telephone: 650-847-4115 x701 Email: tfw@arcutis.com

12. Miscellaneous. To the extent not inconsistent with this Exhibit, Sections 8(a) and 21 of this Lease shall govern the performance of the Work and Landlord's and Tenant's respective rights and obligations regarding the improvements installed pursuant thereto.

EXHIBIT D-1

Space Plan

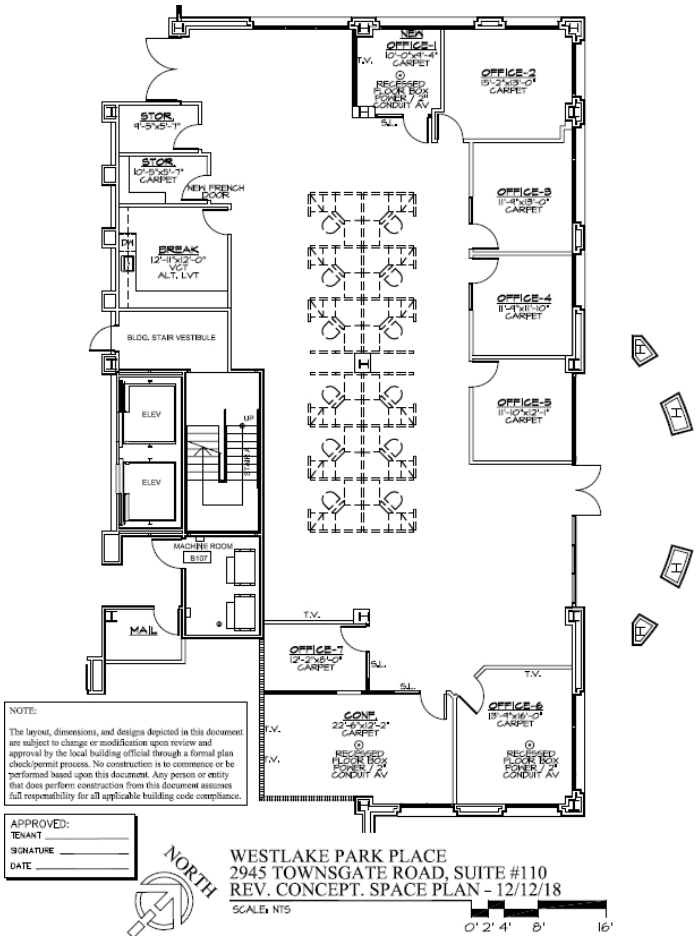

EXHIBIT E

BUILDING RULES AND REGULATIONS

The following rules and regulations shall apply to the Premises, the Building, the parking garage associated therewith, and the appurtenances thereto:

1. Sidewalks, doorways, vestibules, halls, stairways, and other similar areas shall not be obstructed by tenants or used by any tenant for purposes other than ingress and egress to and from their respective leased premises and for going from one to another part of the Building.

2. Plumbing, fixtures and appliances shall be used only for the purposes for which designed, and no sweepings, rubbish, rags or other unsuitable material shall be thrown or deposited therein. Damage resulting to any such fixtures or appliances from misuse by a tenant or its agents, employees or invitees, shall be paid by such tenant.

3. No signs, advertisements or notices (other than those that are not visible outside the Premises) shall be painted or affixed on or to any windows or doors or other part of the Building without the prior written consent of Landlord.

4. [Intentionally Omitted]

5. If the Building is multi-tenant, movement in or out of the Building of furniture or office equipment, or dispatch or receipt by tenants of any bulky material, merchandise or materials which require use of elevators or stairways, or movement through the Building entrances or lobby shall be conducted under Landlord's supervision at such times and in such a manner as Landlord may reasonably require. Each tenant assumes all risks of and shall be liable for all damage to articles moved and injury to persons or public engaged or not engaged in such movement, including equipment, property and personnel of Landlord if damaged or injured as a result of acts in connection with carrying out this service for such tenant.

6. Landlord may prescribe weight limitations and determine the locations for safes and other heavy equipment or items, which shall in all cases be placed in the Building so as to distribute weight in a manner acceptable to Landlord which may include the use of such supporting devices as Landlord may require. All damages to the Building caused by the installation or removal of any property of a tenant, or done by a tenant's property while in the Building, shall be repaired at the expense of such tenant.

7. Corridor doors, when not in use, shall be kept closed. Nothing shall be swept or thrown into the corridors, halls, elevator shafts or stairways. No birds or animals (other than seeing-eye dogs) shall be brought into or kept in, on or about any tenant's leased premises. No portion of any tenant's leased premises shall at any time be used or occupied as sleeping or lodging quarters.

8. Tenant shall not make or permit any vibration or improper, objectionable or unpleasant noises or odors in the Building or otherwise interfere in any way with other tenants or persons having business with them.

9. No machinery of any kind (other than normal office equipment) shall be operated by any tenant on its leased area without Landlord's prior written consent, nor shall any tenant use or keep in the Building any flammable or explosive fluid or substance (other than typical office supplies [e.g., photocopier toner] used in compliance with all Laws).

10. Landlord will not be responsible for lost or stolen personal property, money or jewelry from tenant's leased premises or public or common areas regardless of whether such loss occurs when the area is locked against entry or not.

11. No vending or dispensing machines of any kind may be maintained in any leased premises without the prior written permission of Landlord, other than those used for Tenant's employees.

12. Tenant shall not conduct any activity on or about the Premises or Building which will draw pickets, demonstrators, or the like.

13. No tenant may enter into phone rooms, electrical rooms, mechanical rooms, or other service areas of the Building unless accompanied by Landlord or the Building manager.

14. Tenant shall not permit its employees, invitees or guests to smoke in the Premises or the lobbies, passages, corridors, elevators, vending rooms, rest rooms, stairways or any other area shared in common with other tenants in the Building. Nor shall the tenant permit its employees, invitees, or guests to loiter at the Building entrances for the purposes of smoking. Landlord may, but shall not be required to, designate an area for smoking outside the Building.

15. Canvassing, soliciting or peddling in or about the Premises or the Property is prohibited and Tenant shall cooperate to prevent same.

16. The Premises shall not be used for any use that is disreputable or may draw protests.

EXHIBIT F

CONFIRMATION OF COMMENCEMENT DATE

_____, 2019

_____
_____
_____
_____

Re: Lease Agreement (the "**Lease**") dated _____, 2019, between _____, a _____("**Landlord**"), and _____, a _____ ("**Tenant**"). Capitalized terms used herein but not defined shall be given the meanings assigned to them in the Lease.

Ladies and Gentlemen:

Landlord and Tenant agree as follows:

1. **Condition of Premises**. Tenant has accepted possession of the Premises pursuant to the Lease. Any improvements required by the terms of the Lease to be made by Landlord have been completed to the full and complete satisfaction of Tenant in all respects except for the punchlist items described on Exhibit A hereto (the "**Punchlist Items**"), and except for such Punchlist Items, Landlord has fulfilled all of its duties under the Lease with respect to such initial tenant improvements. Furthermore, Tenant acknowledges that the Premises are suitable for the Permitted Use.

2. **Commencement Date.** The Commencement Date of the Lease is _____, 2019.

3. **Expiration Date**. The Term is scheduled to expire on the last day of the 30th full calendar month of the Term, which date is _____, 2021.

4. **Contact Person**. Tenant's contact person in the Premises is:

_____
_____
_____
Attention: _____
Telephone: _____
Telecopy: _____

5. **Ratification**. Tenant hereby ratifies and confirms its obligations under the Lease, and represents and warrants to Landlord that it has no defenses thereto. Additionally, Tenant further confirms and ratifies that, as of the date hereof, (a) the Lease is and remains in good standing and in full force and effect, and (b) Tenant has no claims, counterclaims, set-offs or

defenses against Landlord arising out of the Lease or in any way relating thereto or arising out of any other transaction between Landlord and Tenant.

6. **Binding Effect; Governing Law**. Except as modified hereby, the Lease shall remain in full effect and this letter shall be binding upon Landlord and Tenant and their respective successors and assigns. If any inconsistency exists or arises between the terms of this letter and the terms of the Lease, the terms of this letter shall prevail. This letter shall be governed by the laws of the state in which the Premises are located.

Please indicate your agreement to the above matters by signing this letter in the space indicated below and returning an executed original to us.

Sincerely,

[Property Manager]

a _____

By: _____
Name: _____
Title: _____

Agreed and accepted:

[TENANT'S SIGNATURE BLOCK],
a _____

By: _____
Name: _____
Title: _____

EXHIBIT A

PUNCHLIST ITEMS

Please insert any punchlist items that remain to be performed by Landlord. If no items are listed below by Tenant, none shall be deemed to exist.

EXHIBIT G

FORM OF TENANT ESTOPPEL CERTIFICATE

The undersigned is the Tenant under the Lease (defined below) between _____, a _____, as Landlord, and the undersigned as Tenant, for the Premises on the _____ floor(s) of the office building located at _____,_____ and commonly known as _____, and hereby certifies as follows:

1. The Lease consists of the original Office Lease Agreement dated as of _____, 2019 between Tenant and Landlord [‘s predecessor-in-interest] and the following amendments or modifications thereto (if none, please state “none”):

_____

The documents listed above are herein collectively referred to as the “Lease” and represent the entire agreement between the parties with respect to the Premises. All capitalized terms used herein but not defined shall be given the meaning assigned to them in the Lease.

2. The Lease is in full force and effect and has not been modified, supplemented or amended in any way except as provided in Section 1 above.

3. The Term commenced on _____, 2019, and the Term expires, excluding any renewal options, on _____, 2021, and Tenant has no option to purchase all or any part of the Premises or the Building or, except as expressly set forth in the Lease, any option to terminate or cancel the Lease.

4. Tenant currently occupies the Premises described in the Lease and Tenant has not transferred, assigned, or sublet any portion of the Premises nor entered into any license or concession agreements with respect thereto except as follows (if none, please state “none”):

_____

5. All monthly installments of Base Rent, all Additional Rent and all monthly installments of estimated Additional Rent have been paid when due through _____. The current monthly installment of Base Rent is $_____.

6. All conditions of the Lease to be performed by Landlord necessary to the enforceability of the Lease have been satisfied and Landlord is not in default thereunder. In addition, Tenant has not delivered any notice to Landlord regarding a default by Landlord thereunder.

7. As of the date hereof, there are no existing defenses or offsets, or, to the undersigned's knowledge, claims or any basis for a claim, that the undersigned has against Landlord and no event has occurred and no condition exists, which, with the giving of notice or the passage of time, or both, will constitute a default under the Lease.

8. No rental has been paid more than 30 days in advance and no security deposit has been delivered to Landlord except as provided in the Lease.

9. If Tenant is a corporation, partnership or other business entity, each individual executing this Estoppel Certificate on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in the state in which the Premises are located and that Tenant has full right and authority to execute and deliver this Estoppel Certificate and that each person signing on behalf of Tenant is authorized to do so.

10. There are no actions pending against Tenant under any bankruptcy or similar laws of the United States or any state.

11. Other than as approved by Landlord in writing and used in compliance with all applicable laws and incidental to the ordinary course of the use of the Premises, the undersigned has not used or stored any hazardous substances in the Premises.

12. All tenant improvement work to be performed by Landlord under the Lease has been completed in accordance with the Lease and has been accepted by the undersigned and all reimbursements and allowances due to the undersigned under the Lease in connection with any tenant improvement work have been paid in full.

Tenant acknowledges that this Estoppel Certificate may be delivered to Landlord, Landlord's Mortgagee or to a prospective mortgagee or prospective purchaser, and their respective successors and assigns, and acknowledges that Landlord, Landlord's Mortgagee and/or such prospective mortgagee or prospective purchaser will be relying upon the statements contained herein in disbursing loan advances or making a new loan or acquiring the property of which the Premises are a part and that receipt by it of this certificate is a condition of disbursing loan advances or making such loan or acquiring such property.

Executed as of _____, 20 ___.

TENANT:

_____

a _____

By: _____

Name: _____

Title: _____

EXHIBIT H

RENEWAL OPTION

If Tenant has not committed an Event of Default at any time during the Term, and Tenant is occupying the entire Premises at the time of such election, Tenant may renew this Lease with respect to the entire Premises only for one (1) additional period of three (3) years ("**Extension Term**"), by delivering written notice of the exercise thereof to Landlord not earlier than fifteen (15) months nor later than six (6) months before the expiration of the Term. The Base Rent payable for each month during such extended Term shall be the prevailing rental rate (the "**Prevailing Rental Rate**"), at the commencement of such extended Term. Within thirty (30) days after receipt of Tenant's notice to renew, Landlord shall deliver to Tenant written notice of the Prevailing Rental Rate and shall advise Tenant of the required adjustment to Base Rent, if any (the "**Rent Adjustment Notice**"). Tenant shall, within ten (10) business days after receipt of Landlord's notice, notify Landlord in writing whether Tenant accepts or rejects Landlord's determination of the Prevailing Rental Rate. If Tenant fails to respond to Landlord's Rent Adjustment Notice in such 10-business day period, time being of the essence, then Tenant's rights under this Exhibit shall terminate and Tenant shall have no right to extend or renew this Lease.

If Landlord and Tenant are unable to agree on the Prevailing Rental Rate during the Extension Term within ten (10) days of receipt by Tenant of the Rent Adjustment Notice, then Landlord and Tenant each, at its sole cost and by giving written notice to the other party, shall appoint a competent and impartial commercial real estate broker (hereinafter "**broker**") with at least ten (10) years' full-time commercial real estate brokerage experience in the geographical area of the Premises to give its determination of the Prevailing Rental Rate for the Premises during the Extension Term. If either Landlord or Tenant does not appoint a broker within ten (10) days after the other party has given written notice of the name of its broker, the single broker appointed shall be the sole broker and shall conclusively determine the Prevailing Rental Rate during the Extension Term. If two (2) brokers are appointed by Landlord and Tenant as stated in this paragraph, they shall meet promptly and attempt to set the Prevailing Rental Rate. If the two (2) brokers are unable to agree within ten (10) days after the second broker has been appointed, then the two (2) brokers shall attempt to select a third broker, meeting the qualifications stated in this paragraph within ten (10) business days after the last day the two (2) brokers are given to set the Prevailing Rental Rate. In addition, each of the two (2) brokers shall submit to the other prior to the end of such second (2nd) ten (10) day period their respective good faith estimate of the Prevailing Rental Rate. If the two (2) brokers are unable to agree on the third broker, either Landlord or Tenant by giving ten (10) days' written notice to the other party, can apply to the Presiding Judge of the Superior Court of the county in which the Premises is located for the selection of a third broker who meets the qualifications stated in this paragraph. If either of the first two (2) brokers fails to submit their respective opinion of the Prevailing Rental Rate within the time frames set forth below, then the single Prevailing Rental Rate submitted shall automatically be the initial monthly Base Rent for the Extension Term and shall be binding upon Landlord and Tenant. Landlord and Tenant each shall bear one-half (½) of the cost of appointing the third broker and of paying the third broker's fee. The third broker, however selected, shall be a person who has not previously acted in any capacity for either Landlord or Tenant. Within fifteen (15) days after the selection of the third broker, the third broker shall select one of the two Prevailing Rental Rates for the Premises, which may be one or the other of the Prevailing Rental Rates submitted by the first two (2) brokers, or a different

rate not greater than the higher nor lower than the lesser of the Prevailing Rental Rates submitted by the first two (2) brokers. The determination of the Prevailing Rental Rate by the third broker shall be conclusive and binding upon Landlord and Tenant.

Upon agreement or determination of the Prevailing Rental Rate as set forth herein, on or before the commencement date of the Extension Term, Landlord and Tenant shall execute an amendment to this Lease extending the Term on the same terms provided in this Lease, except as follows:

(a) Base Rent shall be adjusted to the Prevailing Rental Rate;

(b) Tenant shall have no further renewal option unless expressly granted by Landlord in writing; and

(c) Landlord shall lease to Tenant the Premises in their then-current condition, and Landlord shall not provide to Tenant any allowances (e.g., moving allowance, construction allowance, and the like) or other tenant inducements.

Tenant's rights under this Exhibit shall terminate if (1) this Lease or Tenant's right to possession of the Premises is terminated, (2) Tenant assigns any of its interest in this Lease or sublets any portion of the Premises except to a Permitted Transferee in accordance with the terms and conditions of this Lease, (3) Tenant fails to timely exercise its option under this Exhibit, time being of the essence with respect to Tenant's exercise thereof, or (4) Landlord determines, in its sole but reasonable discretion, that Tenant's financial condition or creditworthiness has materially deteriorated since the date of this Lease.

EXHIBIT I

INTENTIONALLY DELETED

EXHIBIT J

MOISTURE AND MOLD CONTROL INSTRUCTIONS

Because exercising proper ventilation and moisture control precautions will help maintain Tenant's comfort and prevent mold growth in the Premises, Tenant agrees to adopt and implement the following guidelines, to avoid enveloping excessive moisture or mold growth:

1. Report any maintenance problems involving water, moist conditions, or mold to the Property Manager promptly and conduct its required activities in a manner that prevents unusual moisture conditions or mold growth.

2. Do not block or inhibit the flow of return or make up air into the HVAC system. Maintain the Premises at a commercially reasonable consistent temperature.

3. Maintain water in all drain taps at all times.

Dated: _____, 2019

TENANT:

Arcutis, Inc., a Delaware corporation

By: _____
Name: _____
Title: _____

EXHIBIT K

PARKING RULES AND REGULATIONS

The following rules and regulations shall govern the use of the parking facilities designated in the Lease in connection with the use of the Premises.

1. Landlord assumes no responsibility for any damage to any vehicle parked in the parking areas or for any goods left in any such vehicle. All such liability is specifically assumed by the operator of any such vehicle as a condition of parking.

2. Tenant shall not (a) park or permit its employees to park in any parking areas designated by Landlord as areas for parking by visitors to the Project, (b) park or permit its employees, guests, invitees or visitors to park in the residential or commercial neighborhoods contiguous to the Project, (c) leave vehicles in the parking areas overnight, or (d) park any vehicles in the parking areas other than automobiles, motorcycles, motor driven or non-motor driven bicycles or four wheeled trucks. No propane or natural gas powered vehicles shall be allowed to park in the parking areas.

3. Parking cards, stickers, or any other devices or forms of identification supplied by Landlord as a condition of use of the parking facilities shall remain the property of Landlord. Such parking identification device must be displayed as requested and may not be mutilated in any manner. The serial number of the parking identification device may not be obliterated. Devices are not transferable and any device in the possession of an unauthorized holder will be void. Landlord reserves the right to (a) require that a reasonable security deposit be paid to Landlord for each parking area or Building access card issued to Tenant, and (b) change the location of Tenant's reserved parking spaces, if any, from time to time.

4. No overnight or extended term storage of vehicles shall be permitted.

5. Vehicles must be parked entirely within painted stall lines of a single parking stall.

6. All directional signs and arrows must be observed.

7. The speed limit within all parking areas shall be five (5) miles per hour.

8. Parking is prohibited in any area other than those specifically designated for parking.

9. All parkers are required to park and lock their own vehicles. All responsibility for damage to vehicles is assumed by the parker.

10. Loss or theft of parking identification devices must be reported to Landlord's asset management office for the Project immediately, and a lost or stolen report must be filed by the Tenant or user of such parking identification device at the time. Landlord has the right to exclude any vehicle from the parking facilities that does not have an identification device.

11. Any parking identification devices reported lost or stolen found on any unauthorized vehicle will be confiscated and the illegal holder will be subject to prosecution.

12. Washing, waxing, cleaning or servicing of any vehicle in any area not specifically reserved for such purpose is prohibited.

13. The parking operators, managers or attendants are not authorized to make or allow any exceptions to these rules and regulations.

14. Tenant's continued right to use any parking spaces in the parking facilities is conditioned upon Tenant abiding by these rules and regulations and those contained in this Lease. Further, if this Lease terminates for any reason whatsoever, Tenant's right to use the parking spaces in the parking facilities shall terminate concurrently with the Lease.

15. Tenant agrees to sign a parking agreement reasonably acceptable to Tenant with Landlord or Landlord's parking operator within fifteen (15) business days of request, which agreement shall provide the manner of payment of monthly parking fees and otherwise be consistent with this Lease and these rules and regulations.

16. Landlord reserves the right to refuse the sale of parking cards, stickers or other parking identification devices to any tenant or person or their respective agents or representatives who willfully refuse to comply with these rules and regulations and all posted or unposted city, state or federal ordinances, laws or agreements.

17. Tenant and its employees shall comply with any traffic management and/or environmental regulation program now or hereafter in effect, whether imposed by local, regional, state or federal governmental or quasi-governmental agencies (collectively, "**TDM Program**") which has been or may hereafter be applicable to Tenant, the Building or the Project. Tenant acknowledges that such a TDM Program may cause Tenant inconvenience, but nonetheless agrees to cooperate in the formation of, and comply with the provisions of, any such TDM Program. Additionally, Tenant shall (a) participate in any employee commute transportation surveys reasonably required by Landlord, and (b) adhere to measures that Landlord may enact in order to comply with existing and future laws relating to traffic control or flow applicable to the Project. Any breach by Tenant of any of its covenants in this Paragraph 17 may result in penalty fees being assessed against Landlord; therefore, Tenant shall be liable to Landlord for all such fees, plus interest thereon, assessed on account of any such breach, and that breach shall also constitute a material default under this Lease.

Landlord reserves the right to modify these rules and regulations or adopt such other commercially reasonable and nondiscriminatory rules and regulations for the parking facilities as it deems reasonably necessary for the operation of the parking facilities. Landlord may refuse to permit any person who violates these rules to park in the parking facilities, and any violation of the rules shall subject the vehicle to removal at such vehicle owner's expense.

FIRST AMENDMENT TO OFFICE LEASE AGREEMENT

THIS FIRST AMENDMENT TO OFFICE LEASE AGREEMENT (this **"Amendment")** is made as of the 22 day of April, 2020 (the "**Execution Date**"), by and between Westlake Park Place, Inc., a Delaware corporation ("**Landlord**") and Arcutis Biotherapeutics, Inc., a Delaware corporation ("**Tenant**").

W H E R E A S:

A. Landlord and Tenant are parties to that certain Office Lease Agreement dated January 31, 2019 (the "**Lease**") with respect to 4,741 rentable square feet of space commonly known as Suite 110 (the "**Current Premises**") in the building located at 2945 Townsgate Road, Thousand Oaks, California (the "**Current Building**"), as more particularly described in the Lease.

B. The parties desire to amend the Lease in certain respects as more particularly set forth below.

NOW, THEREFORE, in consideration of the execution and delivery of the Lease, this Amendment and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby further agree as follows:

1. Amendment Controlling. This Amendment shall be deemed a part of, but shall take precedence over and supersede any provisions to the contrary contained in the Lease.

2. Capitalized Terms. All initial capitalized terms used in this Amendment shall have the same meaning as set forth in the Lease unless otherwise provided herein.

3. No Default. Tenant hereby certifies that, to Tenant's actual knowledge as of the Execution Date hereof without any duty to enquire, Landlord is currently in good standing under the Lease and that Landlord has fulfilled all of its duties and obligations under the Lease to date. Landlord hereby certifies that, to Landlord's actual knowledge as of the Execution Date hereof without any duty to enquire, Tenant is currently in good standing under the Lease and that Tenant has fulfilled all of its duties and obligations under the Lease to date.

4. Tenant Name. The parties acknowledge and agree that there was a scrivener's error in the Tenant entity name in the Lease and that the Tenant entity name should be, and shall be at all times from and after the date of the Lease, Arcutis Biotherapeutics, Inc., a Delaware corporation, and not Arcutis, Inc.. Arcutis Biotherapeutics, Inc. hereby assumes all liabilities and responsibilities of Tenant under the Lease from and after the date of the Lease and hereby ratifies and confirms all of the terms and conditions of the Lease, as modified hereby.

5. Relocation to New Space. Landlord and Tenant hereby acknowledge and agree that the Tenant shall relocate from the Current Premises in the Current Building to the New Space in the New Building (both as hereinafter defined) in accordance with the following terms:

a. As used in this Amendment, the term "**New Space**" means the approximately 22,643 rentable square feet consisting of the entire third floor (known as Suite 300) of the building located at 3027 Townsgate Road, Thousand Oaks, California (the "**New Building**"), as shown on Exhibit A attached hereto. The New Building contains approximately 60,466 rentable square feet. Tenant shall have the right, within thirty (30) days after the New Space Commencement Date (defined below), to have a licensed and insured architect, reasonably approved by Landlord, remeasure the New Space using the Standard Method for Measuring Floor Area in Office Buildings ANSI/BOMA Z65.1-2017 using a load factor of 1.1527. In the event the results of such remeasurement reveal a different rentable square footage than the figure set forth in this Amendment, the parties shall execute an amendment adjusting the square footage, Base Rent, Tenant's Proportionate Share and any other figure set forth herein or in the Lease to reflect the remeasurement.

b. Tenant shall have the right to use all balconies located on the third floor of the New Building (and shall have the right to place outdoor furniture and fixtures on such balconies at Tenant's cost and expense), subject to compliance with the terms and conditions of the Lease and applicable law. Tenant shall be responsible for the regular cleaning of and keeping all third floor balconies free of debris; provided, however, Landlord shall be responsible for ongoing maintenance and necessary repairs of said balconies in a first-class manner consistent with the other Common Areas (the costs of which shall be reimbursed to Landlord through Tenant's payment of its share of Operating Costs as further set forth in the Lease).

c. The Term of the Lease with respect to the New Space shall begin on the earlier of (i) the date that is fifteen (15) days after the date that the Landlord notifies Tenant in writing that Landlord has achieved "Substantial Completion" of the "Tenant Improvements" as such terms are defined in the Work Letter attached as Exhibit B hereto (the "**Work Letter**") (or the date on which Substantial Completion of the Tenant Improvements would have occurred but for the occurrence of any Tenant Delay (as defined in the Work Letter)), and (ii) the date on which Tenant occupies any portion of the New Space and begins conducting business therein (the "**New Space Commencement Date**"). The Term of the Lease with respect to the Current Premises only shall automatically terminate on the day that is one (1) day prior to the New Space Commencement Date. Tenant shall continue to be liable for all Rent (including, without limitation, Base Rent and, along with Landlord, the reconciliation of Tenant's Proportionate Share of Taxes, Insurance Costs and Operating Expenses) and, together with Landlord, other obligations accruing under the Lease applicable to each party with respect to the Current Premises until and through the date that is one (1) day prior to the New Space Commencement Date. Notwithstanding anything to the contrary contained herein, in the event Substantial Completion of the Tenant Improvements does not occur

within eight (8) months following the Execution Date, as such date may be extended for Force Majeure Events for a maximum of 120 days in the aggregate and any Tenant Delay (the "**Outside Date**"), then, as Tenant's sole and exclusive remedy, Landlord shall pay Tenant an amount equal to $500.00 per day for each day that Substantial Completion of the Tenant Improvement fails to occur after the Outside Date.

d. Upon Substantial Completion of the Tenant Improvements, except as otherwise set forth herein (including Exhibit B) and subject to Landlord's ongoing repair and maintenance obligations expressly set forth in the Lease, Landlord shall deliver and Tenant shall accept the New Space broom-cleaned and in its AS-IS condition with all building systems servicing the New Space and the Tenant Improvements in good working order. Landlord agrees to deliver the Tenant Improvements in compliance with all applicable laws (including ADA) and shall obtain a certificate of occupancy or its legal equivalent allowing legal occupancy of the New Space as a precondition to the occurrence of the Substantial Completion of the Tenant Improvements. Tenant shall not have any obligation to remove or restore the New Space at the expiration or earlier termination of the Lease, including (i) any of the improvements existing in the New Space as of the New Space Commencement Date including the improvements set forth in the Final Plans (defined in Exhibit B), and (ii) any alterations in the New Space made by or on behalf of Tenant during the New Term, as extended, so long as such alterations are (a) approved by the Landlord, which approval shall not be unreasonably withheld, delayed or conditioned, (b) typical office improvements in nature (including cabling) and (c) consistent with the Tenant Improvements.

e. On or before the date that is seven (7) days after the New Space Commencement Date ("**Surrender Date**"), Tenant shall fully vacate the Current Premises and deliver the same to Landlord with all of Tenant's furniture, fixtures, equipment and other items of personal property removed therefrom (but Tenant shall not have to remove, demolish or modify any leasehold improvements or other alterations in the Current Premises existing as of the Execution Date hereof). Tenant's failure to fully vacate and surrender the Current Premises as required by this Section 5 on or prior to the Surrender Date shall entitle Landlord to collect holdover rent from Tenant as set forth in Section 22 of the Lease but the words "one hundred fifty percent (150%)" shall be deleted and replaced with the words "one hundred three percent (103%)" for the first thirty (30) days following the Surrender Date (it being acknowledged and agreed to by Tenant that the holdover rate after such 30-day period shall be 150% as set forth in the Lease, not 103%).

f. Landlord shall notify Tenant in writing of when Landlord believes, in Landlord's good faith judgment, that Substantial Completion of the Tenant Improvements will occur in fifteen (15) days (but in no event shall such notice be deemed a guaranteed delivery date or obligate Landlord to such date but Substantial Completion of the Tenant Improvements will not occur prior to such estimated date). Upon its receipt of such notice, Tenant and its employees, agents, contractors and consultants shall have access to the New Space for the sole purposes of inspecting, measuring, cabling and

fixturing same at any time thereafter (including during the fifteen (15) day period following the Substantial Completion of the Tenant Improvements, as set forth in Section 5(c)(i) above), so long as such entry does not constitute a Tenant Delay or otherwise unreasonably interfere with the performance and/or completion of any aspect of the Tenant Improvements. In addition, commencing upon the Execution Date, Tenant and its employees, agents, contractors and consultants shall have access to the New Space pursuant to this Section solely for purposes of inspecting, measuring and installing all kinds of cabling, wiring and other similar items to the extent it makes sense to install the same at different stages of construction, and such access shall be subject to prior coordination with and approval by the Landlord or the general contractor and shall not interfere with the construction of the Tenant Improvements. Tenant's early access of the New Space shall be subject to the terms and conditions of the Lease (including, without limitation, the indemnification and insurance obligations with respect to the New Space), except for Tenant's obligation to pay Rent for the New Space (unless Tenant business conducting business within the New Space and thus triggering the New Space Commencement Date).

g. As of the New Space Commencement Date, any and all references in the Lease to (i) "Tenant's Proportionate Share of the Building" shall mean 37.4475%, (ii) "Tenant's Proportionate Share of the Project" shall mean 4.8989%, based on the Project containing 462,205 rentable square feet (iii) the "Premises" shall mean the New Space, and (iv) the "Building" shall mean the New Building. Furthermore, as of the New Space Commencement Date, all of the terms of the Lease shall apply to Tenant's use and occupancy of the New Space, except as otherwise expressly provided in this Amendment.

h. Tenant shall be permitted, at its sole cost and expense, to install a security system within the New Space, subject to Landlord's prior written consent, which shall not be unreasonably withheld or conditioned and shall be granted or denied within ten (10) business days. By the Surrender Date, Tenant shall, at its sole option and expense, remove its existing security system from the Current Premises and, if applicable, promptly repair any damage to the Current Premises or Current Building caused thereby. Tenant shall, at its sole option and expense, remove the security system from the New Space upon the expiration or earlier termination of the New Term (defined below) and, if applicable, promptly repair any damage to the New Space or New Building caused thereby.

i. Tenant shall accept and Landlord shall deliver all the furniture, fixtures and equipment existing in the New Space (the "**Existing FFE**") as of the Execution Date hereof, including those items listed in Exhibit E attached hereto, all in their as-is, where-is condition and Landlord shall assign, at no cost to Tenant, any and all of Landlord's interest in and to the Existing FFE to Tenant as of the New Space Commencement Date without the need for further documentation as if it were a transfer via bill of sale and Landlord shall have no liability or responsibility with respect to same. Tenant acknowledges and agrees that Landlord has made no and does not make any representation, warranty or guaranty, express or implied, with respect to the condition of

the Existing FFE or its merchantability or fitness for Tenant's purposes and Landlord hereby expressly disclaims same. Landlord shall use commercially reasonable efforts to preserve the condition of the Existing FFE during the performance of the Tenant Improvements. Notwithstanding the foregoing, Tenant may require that Landlord remove some or all of the Existing FFE from the New Space by the New Space Commencement Date so long as Tenant provides written notice to Landlord of which items are to be removed within sixty (60) days after the Execution Date hereof. Tenant shall remove, at its cost, any Existing FFE that it does not have Landlord remove pursuant to this paragraph on or prior to the expiration or earlier termination of the New Term.

6. New Term. Landlord and Tenant hereby acknowledge and agree that the Lease Term with respect to the New Space only shall be extended for 91 months following the New Space Commencement Date (the "**New Term**").

7. Base Rent During the New Term. Beginning on the New Space Commencement Date, Tenant shall pay Base Rent in the following amounts for the New Space for the specified period:

Months	Monthly Base Rent Per RSF	Monthly Base Rent
1 through 12	$3.35*	$75,854.05*
13 through 24	$3.45*	$78,118.35*
25 through 36	$3.55	$80,382.65
37 through 48	$3.66	$82,873.38
49 through 60	$3.77	$85,364.11
61 through 72	$3.88	$87,854.84
73 through 84	$4.00	$90,572.00
85 through 91	$4.12	$93,289.16

*Notwithstanding anything to the contrary, provided that Tenant is not then in default beyond applicable notice and cure periods under the Lease during such months, Base Rent shall abate (i) 100% for months 1-7 following the New Space Commencement Date, (ii) by 50% for months 8-12 following the New Space Commencement Date, and (iii) by 25% for months 13-20 following the New Space Commencement Date (collectively, the "**Abated Rent**"); provided, however, upon the cure of any such default, Tenant shall then be entitled to such Abated Rent. If Landlord terminates the Lease due to a Tenant default thereunder, then all unamortized Abated Rent on a straight-line basis over the New Term granted to Tenant as of such date shall be immediately due and payable to Landlord in one lump sum.

Tenant shall pay the first month of Base Rent due for the New Space to Landlord simultaneously with Tenant's execution and delivery of this Amendment, which amount shall be applied to Base Rent during the first full calendar month in which Base Rent is due hereunder following the New Space Commencement Date (subject to any Abated Rent period).

8. Base Year During New Term. Beginning on the New Space Commencement Date, any and all references in the Lease to "Base Year" shall mean the calendar year 2020. Notwithstanding anything to the contrary, Tenant shall have no obligation to pay any Operating Expenses, Taxes or Insurance Costs for the first twelve (12) months following the New Space Commencement Date.

9. Termination Right. Provided that Tenant is not then in default of the Lease beyond applicable notice and cure periods, Tenant shall have a one-time right to terminate the Lease, which termination shall be effective upon the last day of the month that is sixty-seven (67) months following the New Space Commencement Date (the "**Termination Date**") by providing written notice of same to Landlord no more than fifteen (15) months and not less than twelve (12) months prior to the Termination Date, failing which Tenant's termination right set forth in this paragraph shall be deemed waived. Furthermore, Tenant's termination right set forth herein shall be conditioned upon Tenant delivering to Landlord, within ten (10) days after delivery of Tenant's termination notice, a termination fee equal to the Total Leasing Costs (defined below). "**Total Leasing Costs**" shall mean: (i) two (2) months' of the total Rent due under the Lease as of the date of Tenant's termination notice, *plus* (ii) the unamortized balance of the New Allowance (defined in the Work Letter) calculated on a straight-line basis amortized at eight percent (8%), *plus* (iii) the unamortized balance (on a straight line basis over the New Term) seventy-five percent (75%) of the Abated Rent, *plus* (iv) the unamortized balance (on a straight-line basis over the New Term) all brokerage commissions in connection with the Lease and this Amendment. Tenant's failure to deliver the foregoing termination fee to Landlord within said 10-day period shall be deemed a waiver of Tenant's termination right hereunder. All Rent and other obligations of Tenant and Landlord under the Lease shall continue to be due and payable and/or performed as set forth therein until and through the Termination Date if Tenant exercises the termination right provided in this paragraph.

10. Option to Extend. Exhibit H of the Lease is hereby deleted in its entirety and replaced with Exhibit H attached hereto.

11. SNDA. Notwithstanding anything to the contrary in the Lease, in the event Landlord places a Mortgage on the Building, Landlord shall use commercially reasonable efforts to deliver to Tenant a subordination, non-disturbance and attornment agreement from Landlord's Mortgagee on a commercially reasonable form. Landlord represents and warrants to Tenant that, as of the Execution Date hereof, there are no existing lenders or ground lessors with respect to the New Building.

12. Signage. In addition to the signage rights granted to Tenant in the Lease (which rights shall apply with respect to the New Space as of the New Space Commencement Date), Tenant shall have the right, at Tenant's sole cost and expense (subject to the New Allowance as set forth in the Work Letter), to install signage in Tenant's reception area inside of the New Space and Tenant's name and logo in the third (3rd) floor elevator lobby and on the New Building's façade, which may be back-lit, at Tenant's sole cost and expense, only if permitted by the City of Thousand Oaks, any signage criteria and/or committee governing the Project and any recorded covenants and/or declarations binding on the New Building with respect to signage

(collectively, the "**Westlake Signage Program**"), in only one (1) of the two (2) location options shown on Exhibit C attached hereto ("**Building Façade Sign**"), and Tenant's name on the existing monument sign as shown on Exhibit F attached hereto; provided, however, Exhibit F shows merely the location of the monument signage as of the Execution Date hereof and Landlord reserves the right to relocate within close proximity to the Building, redesign or otherwise modify such monument sign from time to time so long as Tenant shall have the right to have its name on any monument sign then serving the New Building and any costs of relocation, redesign or modification shall be borne solely by Landlord (collectively, "**Tenant's Signage**"). Notwithstanding anything to the contrary, all of Tenant's Signage shall be subject to applicable law, the Westlake Signage Program and the prior written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant shall be responsible, at its sole cost and expense, to obtain all approvals and permits needed from any governmental authority and/or the Westlake Signage Program in connection with Tenant's Signage and to repair, maintenance, replace and remove Tenant's Signage, provided, however, Tenant may use a portion of the New Allowance for the initial installation costs of Tenant's Signage in accordance with the Work Letter. Notwithstanding the foregoing, in the event that Tenant installs the Building Façade Sign in the location shown as "Option A" in Exhibit C attached hereto, Landlord, at Landlord's sole cost and promptly after Tenant's installation, and if permitted by the City of Thousand Oaks, applicable law, and the Westlake Signage Program, shall trim the trees in front of such signage to make the Building Façade Sign reasonably visible from the parking area existing as of the date hereof. Notwithstanding anything to the contrary contained in the Lease, Landlord agrees, at Landlord's sole cost, to provide Tenant with Building standard signage at the entrance to the New Space and in the New Building lobby directory. Tenant reserves the right to keep the doors to Tenant's New Space open during business hours so long as Tenant complies with applicable laws.

13. Parking. Tenant shall be entitled to four (4) unreserved parking spaces for every 1,000 rentable square foot of space within the New Space for a total of ninety-one (91) parking spaces as of the New Premises Commencement Date at no charge to Tenant during the New Term, as such may be extended. Notwithstanding the foregoing or anything contained in the Lease or herein, Tenant shall have the right to convert up to four (4) of the aforementioned ninety-one (91) parking spaces to reserved parking spaces exclusive for Tenant's use, at no charge to Tenant during the New Term, as such may be extended, in the initial locations shown on Exhibit G attached hereto (it being agreed that Exhibit G merely shows the locations of the reserved spaces as of the Execution Date hereof and Landlord reserves the right to relocate any of the four (4) reserved spaces from time to time to a mutually agreed location in reasonable proximity to the entrance to the Building upon prior written notice to Tenant). Landlord will install "reserved" signs at each of the four (4) reserved spaces, at Tenant's cost.

14. Security Deposit. Notwithstanding anything in the Lease to the contrary, Tenant agrees that Landlord shall continue to hold (and/or apply, in accordance with the Lease) the current Security Deposit in the amount of $78,226.50 pursuant to Section 6 of the Lease through the expiration or earlier termination of the New Term, which Security Deposit shall be deemed to be security for all of Tenant's obligations under the Lease and this Amendment. In addition to the Security Deposit, Tenant shall, on or prior to the New Space Commencement Date, deliver to

Landlord a letter of credit in a form reasonably satisfactory to Landlord in the amount of $1,542,000.00 (the "**Letter of Credit**") for the full and faithful performance of all obligations of Tenant under the Lease, as amended by this Amendment. Landlord hereby approves Silicon Valley Bank as the issuing bank if selected by Tenant, based on the qualifications of said bank existing as of the Execution Date hereof, and the Letter of Credit form attached as Schedule 1 to Exhibit D. The Letter of Credit shall be subject to and comply with the terms and conditions set forth in Exhibit D attached hereto and made a part hereof. Provided that Tenant is not then in Default of the Lease beyond applicable notice and cure periods, the amount of the Letter of Credit shall reduce by $308,400.00 on the first, second, third and fourth anniversary of the New Space Commencement Date and by $44,835.48 on the fifth anniversary, and the remaining Letter of Credit amount from said date shall be equal to three (3) months of the then current Base Rent for a total amount of $263,564.52 and once the Letter of Credit hits such threshold, no further reductions shall be had; provided, however, if a default then exists at the time of any scheduled reduction, the Letter of Credit will not reduce until such time as all defaults are cured. Landlord agrees, at no cost to Landlord, to execute any documents reasonably required by Tenant's approved issuing bank to effectuate a reduction of the Letter of Credit within ten (10) business days after its receipt of written request from Tenant, failing which Landlord shall pay a penalty of $250.00 per day until Landlord delivers such documentation.

15. Brokerage. Landlord and Tenant hereby acknowledge and agree that the only brokers involved in this transaction are CBRE, representing the Landlord, and Cresa Los Angeles, representing the Tenant (the "**Disclosed Brokers**"). Landlord and Tenant each represent and warrant to the other that neither has had any dealings or entered into any agreements with any person, entity, broker or finder other than the Disclosed Brokers in connection with this Amendment, and no other broker, person or entity is entitled to any commission or finder's fee in connection with the negotiation of this Amendment. Tenant and Landlord each agree to indemnify, defend and hold the other harmless from and against any claims, damages, costs, expenses, attorneys' fees or liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings, actions or agreements of the indemnifying party. Landlord shall pay the Disclosed Brokers pursuant to the terms of a separate agreement.

16. Effect of Amendment. Except as specifically stated herein, Tenant's lease of the New Space shall be subject to all of the terms of the Lease. Tenant acknowledges and agrees that except as specifically modified hereby, all of the provisions of the Lease which are not in conflict with the terms of this Amendment shall remain in full force and effect. In addition, Landlord and Tenant hereby amend the Lease as follows:

a. Section 26(u) of the Lease is hereby amended to add the following sentence at the end of such Section: "Notwithstanding anything to the contrary contained in this Lease, Tenant may share such confidential information (i) with its legal counsel, leasing broker and/or other consultants hired by Tenant in connection with the Lease provided that such parties shall agree to be bound by the terms of this confidentiality provision and Tenant shall be responsible for any breach of such confidentiality provision caused by such parties, (ii) as required by applicable law or a court order from a court of competent jurisdiction and (iii) as required by and/or in order to

comply with the requirements of the Securities and Exchange Commission (SEC) or any other agency governing publicly traded companies, including in connection with Tenant's public filings."

b. Section 20 of the Lease is hereby deleted in its entirety.

c. Section 15 of the Lease is hereby deleted in its entirety and replaced with the following:

Fire or Other Casualty.

(a) **Repair Estimate**. If the Premises or the Building are damaged by fire or other casualty (a "**Casualty**"), Landlord shall use good faith efforts to deliver to Tenant within sixty (60) days after such Casualty a good faith estimate (the "**Damage Notice**") of the time needed to repair the damage caused by such Casualty, which estimate shall be based upon consultation with a licensed contractor.

(b) **Tenant's Rights**. If (i) a material portion of the Premises is damaged by Casualty such that Tenant is prevented from conducting its business in the Premises in a manner reasonably comparable to that conducted immediately before such Casualty and Landlord estimates in the Damage Notice that the damage caused thereby cannot be repaired within one hundred eighty (180) days after the commencement of repairs or within two hundred seventy (270) days after the Casualty (the "**Repair Period**"), or (ii) less than one hundred eighty (180) days will remain in the Term assuming the damage caused by the Casualty is repaired within the estimated period set forth in the Damage Notice, then Tenant may terminate this Lease by delivering written notice to Landlord of its election to terminate within thirty (30) days after the date the Damage Notice has been delivered to Tenant.

(c) **Landlord's Rights**. If a Casualty damages the Premises or a material portion of the Building and: (1) Landlord estimates in the Damage Notice that the damage to the Premises cannot be repaired within the Repair Period; (2) the damage to the Premises exceeds fifty percent (50%) of the replacement cost of the damaged portion of the Building (excluding foundations and footings), as estimated by Landlord in consultation with a licensed contractor, and such Casualty occurs during the last eighteen (18) months of the Term; (3) regardless of the extent of damage to the Premises, Landlord makes a good faith determination that restoring the Building would be uneconomical (provided that Landlord elects to terminate the majority of all similarly situated tenants in the Building); or (4) Landlord is required to pay any portion of the insurance proceeds arising out of the Casualty to a Landlord's Mortgagee (provided that Landlord elects to terminate the majority of all similarly situated tenants in the Building), then Landlord may terminate this Lease by giving written notice of its election to terminate within thirty (30) days after the Damage Notice has been delivered to Tenant.

(d) **Repair Obligation**. If neither party elects to terminate this Lease following a Casualty, then Landlord shall, within a reasonable time after such Casualty, begin to repair the Premises and shall proceed with reasonable diligence to restore the Premises to substantially the same condition as they existed immediately before such Casualty; however,

other than Building-standard leasehold improvements and any leasehold improvements existing in the Premises which were included within the Work performed by Landlord pursuant to Exhibit D, Landlord shall not be required to repair or replace any Alterations or betterments within the Premises (which shall be promptly and with due diligence repaired and restored by Tenant at Tenant's sole cost and expense, provided that Tenant's obligation to so repair and restore shall be limited to the extent of the sum of the insurance proceeds actually received by Tenant for the Casualty in question (or which would have been received by Tenant if Tenant complied with its insurance obligations under this Lease) plus the amount of any deductible maintained by Tenant under such insurance) or any furniture, equipment, trade fixtures or personal property of Tenant or others in the Premises or the Building, and Landlord's obligation to repair or restore the Premises shall be limited to the extent of the sum of the insurance proceeds actually received by Landlord for the Casualty in question (or which would have been received by Landlord if Landlord complied with its insurance obligations under this Lease) plus the amount of any deductible maintained by Landlord under such insurance. If this Lease is terminated under the provisions of this Section 15, Landlord shall be entitled to the full proceeds of the insurance policies providing coverage for all Alterations, improvements and betterments in the Premises (and, if Tenant has failed to maintain insurance on such items as required by this Lease, Tenant shall pay Landlord an amount equal to the proceeds Landlord would have received had Tenant maintained insurance on such items as required by this Lease). If neither party elects to terminate this Lease following a Casualty and Landlord thereafter fails to complete the repairs and restoration within one hundred eighty (180) days after the commencement of such repairs and restoration or within two hundred seventy (270) days after the Casualty, which deadlines shall be subject to extension for force majeure (not to exceed sixty (60) days in the aggregate) and/or Tenant delay, then Tenant shall be entitled to terminate this Lease by giving written notice thereof to Landlord after such period but prior to substantial completion of such repairs and restoration; provided, however, if Landlord thereafter substantially completes such repairs and restoration within thirty (30) days after Tenant delivers such termination notice, then such termination notice shall be null and void and this Lease shall continue in full force and effect.

(e) **Abatement of Rent**. If the Premises are damaged by Casualty, Rent for the portion of the Premises rendered untenantable by the damage shall be abated on a reasonable basis from the date of damage until the completion of Landlord's repairs (or until the date of termination of this Lease by Landlord or Tenant as provided above, as the case may be); provided, however, if less than all of the Premises is rendered untenantable by the damage and the remaining portion of the Premises is not sufficient to allow Tenant to reasonably conduct its business therein, and Tenant does not conduct its business from any portion of the Premises, then the Rent shall be abated as to the entire Premises until completion of Landlord's repairs.

(f) **Waiver**. The rights contained in this Section 15 shall be Tenant's sole and exclusive remedy in the event of a Casualty. Tenant hereby waives the provisions of Sections 1932(2) and 1933(4) of the California Civil Code and the provisions of any successor or other law of like import.

d. The following language shall be added as Section 7(e) of the Lease:

"Notwithstanding the foregoing or anything to the contrary in this Lease, if: (i) such utility service is interrupted or Tenant is otherwise prevented from using the Premises or any material portion thereof because of: (A) the negligent acts or intentional misconduct of Landlord, its employees, agents or contractors; (B) construction, repair, maintenance or alterations performed by Landlord after completion of the Tenant Improvements; (C) Landlord's failure to perform any repair, maintenance or replacement required by it under this Lease following the lapse of a reasonable notice and cure period with respect thereto (but in no event less than any notice and/or cure period expressly given under this Lease for such obligation); and/or (D) the presence of Hazardous Materials in, on or around the Project caused by Landlord or Landlord's agent, employees or contractors in violation of applicable Laws which poses a material health risk to occupants of the Premises (each such set of circumstances as set forth in such items (A)-(D) shall be referred to as an "**Interruption Event**"); (ii) Tenant notifies Landlord of such Interruption Event in writing (the "**Interruption Notice**"); (iii) such Interruption Event does not arise in whole or in part as a result of an act or omission of a Tenant Party; (iv) such Interruption Event is not caused by a fire or other casualty (in which event the provisions of Section 15 shall apply); (v) the repair or restoration of such service or the correction of such failure or problem is reasonably within the control of Landlord; (vi) Landlord actually receives rental interruption proceeds in connection with the applicable Interruption Event; and (vii) as a result of such Interruption Event, the Premises or a material portion thereof, is rendered untenantable (meaning that Tenant is unable to use the Premises in the normal course of its business) and Tenant in fact ceases to use the Premises, or material portion thereof, then, Tenant's sole and exclusive remedy for such Interruption Event (unless expressly covered elsewhere in the Lease) shall be as follows: on the fifth (5th) consecutive Business Day following the latest to occur of the date the Premises (or material portion thereof) becomes untenantable, the date Tenant ceases to use such space and the date Tenant provides Landlord with an Interruption Notice, the Rent payable hereunder shall be abated on a per diem basis for each day after such five (5) Business Day period based upon the percentage of the Premises so rendered untenantable and not used by Tenant, and such abatement shall continue until the date the Premises become tenantable again or, if earlier, the date Tenant reoccupies the Premises or the relevant part thereof for the Permitted Use. Notwithstanding the foregoing, however, the Rent abatement granted to Tenant hereunder shall be limited to the extent of rental interruption insurance proceeds Landlord actually receives, if any, in connection with such Interruption Event."

e. Notwithstanding anything to the contrary contained in the Lease, no Landlord consent shall be required for interior painting or carpeting, or any other cosmetic alterations costing less than $125,000.00 to the extent such alteration does not result in a Design Problem (as defined in Exhibit B attached hereto), provided, however, Tenant shall give Landlord reasonable written notice of any such alterations prior to the commencement of same. Landlord shall not charge a construction supervision or coordination fee in excess of four percent (4%), nor an administrative charge for any costs or expenses due under the Lease in excess of five

percent (5%), and any payments due from Tenant to Landlord that are not recurring payments shall be due within thirty (30) days of receipt of any invoice from Landlord. In addition, Landlord shall be responsible for making any alterations or improvements required by Laws with respect to the items which are Landlord's responsibility to repair and maintain pursuant to the Lease, except that Tenant shall reimburse Landlord, within thirty (30) days after invoice, for the costs of any such alterations and improvements and other compliance costs to the extent necessitated by or resulting from (i) any alterations, improvements or other work made by Tenant or at Tenant's direction (other than the Tenant Improvements), (ii) the use of the Premises for other than the Permitted Use, or (iii) the negligence or willful misconduct of Tenant or any Tenant Party, and (1) Landlord shall be responsible to remedy, at Landlord's sole cost and expense, any condition existing prior to the Commencement Date which an applicable governmental authority, if it had knowledge of such condition prior to the Commencement Date, would have then required to be remedied pursuant to then-current Disabilities Acts in their form existing as of the Commencement Date, and (2) Landlord shall be responsible for making any alterations or improvements required by Disabilities Acts with respect to the items which are Landlord's responsibility to repair and maintain pursuant to the Lease, except that Tenant shall reimburse Landlord, within thirty (30) days after invoice, for the costs of any such alterations and improvements and other compliance costs to the extent necessitated by or resulting from any of the subsections (i) - (iii) above.

f. The last sentence in Section 1 of Exhibit C of the Lease is hereby deleted in its entirety.

g. The second paragraph of Section 2 on Exhibit C of the Lease is hereby deleted and replaced with the following:

"Notwithstanding the foregoing or anything to the contrary in the Lease (including this Exhibit C), Operating Costs shall not include costs for: (1) repair, replacements and general maintenance paid by or for which Landlord is reimbursed by proceeds of insurance (or for which Landlord would have been reimbursed by proceeds of insurance had Landlord complied with its obligations under this Lease) or by Tenant or other third parties; (2) interest, amortization or other payments on loans to Landlord; (3) depreciation; (4) leasing commissions; (5) legal expenses for services, other than those that benefit the Project tenants (e.g., tax disputes); (6) renovating or otherwise improving leased premises of the Project or vacant space in the Project, including permit, license, inspection costs and allowances therefor; (7) Taxes (as defined below) and Insurance (as defined below) which are paid separately pursuant to Sections 3 and 4 below; (8) federal income taxes imposed on or measured by the income of Landlord from the operation of the Project; (9) interest, amortization or other payments on loans to Landlord; (10) ground lease rental; (11) the cost of capital repairs, replacements, capital improvements or other capital expenditures, other than those expressly permitted under subsection (c) of the first grammatical paragraph of this Section 2; (12) marketing, advertising and promotional costs, including, without limitation, leasing commissions, finders' fees, attorneys' fees in connection with the negotiation and preparation of letters, deal memos, letters of intent, leases, subleases and/or assignments, space planning costs, and other

costs and expenses incurred in connection with lease, sublease and/or assignment negotiations and transactions with present or prospective tenants or other occupants of the Project (including, without limitation, this Lease); (13) expenses in connection with services which are not available to Tenant; (14) overhead and profit paid to Landlord or to subsidiaries or affiliates of Landlord for goods and/or services in the Project to the extent the same exceeds the costs of such goods and/or services rendered by qualified, unaffiliated third parties on a competitive basis; (15) Landlord's general corporate overhead and general and administrative expenses not specifically and directly incurred in the management, maintenance and operation of the Project; (16) costs incurred in correcting any non-compliance of the Project with applicable Laws where such non-compliance was existing as of the Commencement Date and which an applicable governmental authority, if it had knowledge of such condition prior to the Commencement Date, would have then required to be remedied pursuant to then-current Laws in their form existing as of the applicable Commencement Date; (17) costs incurred to remove, remediate or otherwise in connection with or as a result of any Hazardous Materials which (i) migrate to the Project from other property after the date hereof, (ii) constitute asbestos containing materials, (iii) were in existence in, on, under or about the Project (or any portion thereof) prior to the Commencement Date (not caused by Tenant or any Tenant Party), and were of such a nature that a federal, state or municipal governmental or quasi-governmental authority, if it had then had knowledge of the presence of such Hazardous Materials, in the state, and under the conditions that they then existed in, on, under or about the Project, would have then required the removal, remediation or other action with respect thereto, and/or (iii) are disposed of or otherwise introduced into, on, under or about the Project after the date hereof by Landlord or Landlord’s agents, employees, contractors or licensees (including any other tenants of the Project) and are of such a nature, at time of disposition or introduction, that a federal, state or municipal governmental or quasi-governmental authority, if it had then had knowledge of the presence of such Hazardous materials, in the state, and under the conditions, that they then existed in, on, under or about the Project, would have then required the removal, remediation or other action with respect thereto, provided that Operating Costs may include the costs attributable to removing Hazardous Materials in the ordinary course of cleaning and maintaining the Project; (18) increased costs of performance arising from the gross negligence or willful misconduct of Landlord or any Indemnitee; (19) costs arising from Landlord's charitable or political contributions; (20) costs (other than ordinary maintenance) for sculpture, paintings, fountains and other objects of art; (21) any bad debt loss, rent loss, or reserves for bad debts or rent loss; (22) costs associated with the operation of the business of the partnership or entity which constitutes the Landlord, as the same are distinguished from the costs of operation of the Project (which shall specifically include, but not be limited to, accounting costs associated with the operation of the Project), including costs of partnership accounting and legal matters, costs of defending any lawsuits with any mortgagee, costs of selling, syndicating, financing, mortgaging or hypothecating any of the Landlord's interest in the Project, and costs incurred in connection with any disputes between Landlord and its employees, between Landlord and Project management, or between Landlord and other tenants or occupants; (23) the wages and benefits of any employee who does not devote

substantially all of his or her employed time to the Project unless such wages and benefits are prorated to reflect time spent on operating, maintaining, repairing and managing the Project vis-à-vis time spent on matters unrelated to operating, maintaining, repairing and managing the Project; provided, that in no event shall Operating Costs include wages and/or benefits attributable to personnel above the level of Project manager or Project engineer; (24) a management fee to the extent in excess of three percent (3%) of gross revenues derived from the Project; (25) intentionally deleted; (26) costs incurred in connection with the original construction of the Project and/or costs of inspecting and correcting defects in the Project; (27) advertising and promotional expenses and costs of signs in or on the Building exclusively identifying the owner of the Building or other signs for the exclusive use of other tenants; (28) any entertainment, dining or travel expenses for any purpose; (29) in the event any facilities, services or utilities used in connection with the Project are provided from another building owned or operated by Landlord outside of the Project or vice versa, the costs incurred by Landlord in connection therewith shall be allocated to Operating Costs by Landlord on a reasonably equitable basis; (30) costs due to violations of Laws by Landlord or any Indemnitee, including, but not limited to, violations of any covenants, conditions and restrictions affecting the Project; and (31) costs expressly excluded from Operating Costs elsewhere in the Lease. In no event shall Landlord be entitled to collect and retain in excess of one hundred percent (100%) of the total Operating Costs from all of the tenants in the Project including Tenant."

h. The words "sixty (60) days" set forth in Section 8 of Exhibit C of the Lease are hereby deleted and replaced with the words "one (1) year". In addition, notwithstanding anything to the contrary in Exhibit C of the Lease, Tenant shall not be responsible for Tenant's share of Operating Costs, Taxes or Insurance attributable to any calendar year which are first billed to Tenant more than twenty four (24) months after the earlier of the expiration of the applicable calendar year or the expiration or earlier termination of the Lease, provided that in any event Tenant shall be responsible for Tenant's share of Operating Costs, Taxes or Insurance levied by any governmental authority or by any utility companies at any time regardless of such 24-month cap, provided that Landlord delivers Tenant a bill for such amounts within twenty-four (24) following Landlord's receipt of the bill therefor.

17. Execution; Counterparts and Electronic Signatures. This Amendment may be executed in two or more counterpart copies and each of such counterparts, for all purposes, shall be deemed to be an original but all of such counterparts together shall constitute but one and the same instrument, binding upon all parties hereto, notwithstanding that all of such parties may not have executed the same counterpart. In addition, Landlord and Tenant further acknowledge and agree that notwithstanding any law or presumption to the contrary, it is the express intention of Landlord and Tenant that an electronic signature via DocuSign or by e-mail in PDF format of either party or of any witness on this Amendment shall be deemed valid and binding as if the same were an original ink signature of such party or witness on this Amendment and shall be admissible in any proceeding by either party against the other as conclusive proof of the parties' execution of this Amendment, as if the same were an original ink signature. The parties hereby agree to be bound by such electronic signatures and waive any defenses to the enforcement of the

terms of this Amendment based on the format of signature or delivery method thereof. The provisions of this paragraph shall survive this Amendment and the Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

LANDLORD:

WESTLAKE PARK PLACE, INC.,
a Delaware corporation

By: /s/ Thomas A Hurst
Name: Thomas A Hurst
Title: Vice President

TENANT:

ARCUTIS BIOTHERAPEUTICS,
a Delaware corporation

By: /s/ Frank Watanabe
Name: Frank Watanabe
Title: President and CEO

EXHIBIT A
Floor Plan of New Space

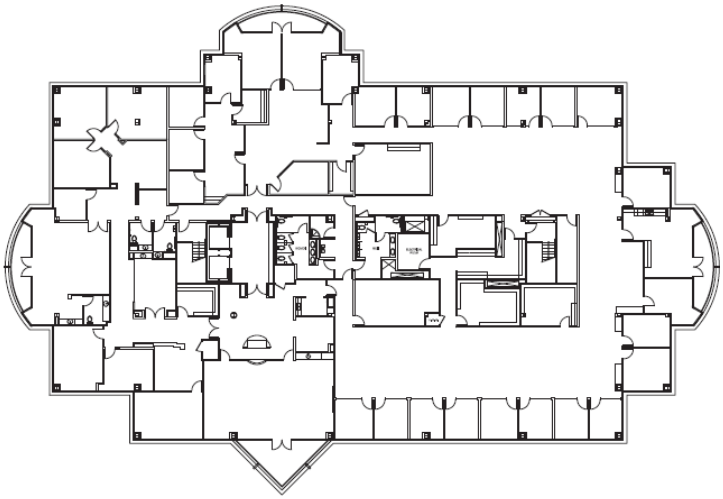

EXHIBIT B

WORK LETTER

1. Tenant Improvements. Landlord shall, subject to the provisions of this Exhibit B, construct and install within the New Space the tenant improvements (the "**Tenant Improvements**") pursuant to the Final Plans. The Tenant Improvements shall be constructed and installed in accordance with Landlord's building standards (the "**Building Standards**") or as otherwise indicated in the Final Plans.

a) Plans. Landlord shall cause to be prepared by an architect selected by Tenant and reasonably approved by Landlord ("**Landlord's Architect**") complete, finished, detailed architectural drawings and specifications for the Tenant Improvements (the "**Plans**") which shall be consistent with the space plan attached hereto as Exhibit B-1 (the "**Space Plan**"). Landlord hereby approves View Design Studio as the Landlord's Architect, if selected by Tenant. Notwithstanding the foregoing, mechanical, electrical and plumbing and fire life & safety drawings shall be completed by Simon Wong.

Tenant agrees to be reasonably available and to devote such time in consultation with Landlord and Landlord's Architect, as may be reasonably requested, and to furnish within five (5) business days after any such request is made, such information as may be necessary so that Landlord's Architect may promptly commence and complete preparation of the Plans.

The Plans shall be subject to the prior written approval by Tenant and Landlord, which shall not unreasonably withhold; provided that any Landlord's disapproval of the Plans shall be limited to (i) the Plans not being in accordance with all applicable laws (including, without limitation, building codes) or not being in a form or substance to enable Landlord to obtain all required building permits and approvals, if any, or (ii) the Tenant Improvements affecting the New Building's systems, affecting the New Building exterior, and/or affecting the New Building structural components (each, a "**Design Problem**"), or (iii) the Plans being materially inconsistent with the Space Plan. If the Tenant makes any changes to the Plans that are materially inconsistent with the Space Plan, unless such changes were required by governmental authorities, any delays resulting therefrom shall be Tenant Delays.

Upon completion of the Plans, Landlord shall submit the Plans to Tenant for its review and approval. Tenant shall have ten (10) business days from receipt of the Plans to review and approve the Plans or state any objections in writing, failing which such Plans shall be deemed approved. Tenant's approval shall not be unreasonably withheld, and any objections shall be reasonable in nature and stated in sufficient detail so as to allow the necessary modifications by Landlord.

Once approved by Landlord and Tenant (or deemed approved by Tenant as provided above), the Plans, as so approved (the "**Final Plans**"), may only be modified with Landlord's and Tenant's written approval as provided above, and Tenant shall be liable for any additional costs incurred in connection with such changes that are requested by Tenant (which may be paid from the New Allowance to the extent funds then remain to cover such costs). Any

changes requested by governmental authorities shall be at Landlord's sole cost and expense and not deducted from the New Allowance if involving the restrooms, hallways, elevator lobby or areas not on the New Space floor. Approval by Landlord of the Final Plans shall not be a representation or warranty of Landlord that such drawings are adequate for any use, purpose, or condition, but shall merely be the consent of Landlord to the performance of the Tenant Improvements.

b) Selection of Contractor. Landlord and Tenant Improvements shall select a general contractor, to be engaged by Landlord, to perform the Tenant Improvements through a competitive bidding process consisting of no less than three (3) general contractor bids based on the general contractor's profits and fees, insurance costs, and general conditions. Unless otherwise approved by Tenant, the general contractor selected by Landlord and Tenant shall competitively bid all trades to no less than three subcontractors for millwork, demolition, glass/glazing, flooring, painting, framing and drywall. Notwithstanding the foregoing, Landlord and the general contractor shall have sole discretion in selecting the electrical, mechanical, plumbing and fire life safety and security vendors, so long as such vendors are at competitive market rates. Landlord and Tenant shall mutually agree regarding constructing the mechanical, electrical and plumbing portions of the Tenant Improvements on a "Design-Build" basis. There shall be no requirement to use union labor in connection with the Tenant Improvements or any of Tenant's work in the New Space. Notwithstanding the foregoing, Landlord hereby approves Alpha Omega Contractors as a general contractor for the construction of the Tenant Improvements.

2) Performance of Tenant Improvements by Landlord. "**Substantial Completion**" of the Tenant Improvements shall mean the issuance of a signed permit card from the City of Thousand Oaks for the New Space and the substantial completion of the Tenant Improvements in a good and workmanlike manner and in substantial conformity with the Final Plans with the exception of minor or insubstantial details of construction, mechanical adjustment or decoration, the incompletion of which shall not unreasonably interfere with normal use and occupancy of the New Space by Tenant as reasonably determined by Landlord's Architect. Such minor or insubstantial details are hereinafter referred to as the "**Punch List Items**" which shall be mutually identified in writing by Landlord and Tenant within ten (10) business days after Substantial Completion of the Tenant Improvements and delivery of the New Space to Tenant. Landlord shall complete all Punch List Items with due diligence within a reasonable period of time after the creation of the list of Punch List Items. Landlord shall perform and complete the Tenant Improvements in a good workmanlike manner and in compliance with all applicable codes and laws, including, without limitation, the Americans with Disabilities Act. In no event shall Tenant be required to remove, restore, demolish or destroy any portion of the Tenant Improvements upon the expiration or earlier termination of the New Term, as extended. Landlord shall provide a one (1) year warranty with respect to the Tenant Improvements.

3) Cost of Tenant Improvements. Subject to the terms and conditions hereof, Landlord shall contribute up to $1,245,365.00 (i.e., $55.00 per rentable square foot of the New Space) toward the costs and expenses for the design and construction of the Tenant Improvements in accordance with the Final Plans (including, Tenant's Signage, Landlord's Supervision Fee (as defined below) and code compliance costs, architecture and engineering

plans and fees, plan check and permit fees, project management and telecommunications and computer cabling) (the "**New Allowance**"). Notwithstanding anything contained herein, in addition to the New Allowance, Landlord shall pay the cost of the Space Plan directly to the vendor. Any costs and expenses for the Tenant Improvements in excess of the New Allowance shall be paid by Tenant within thirty (30) days after Landlord written demand for same, together with appropriate back-up. Tenant's failure to pay for the cost of the Tenant Improvements in excess of the New Allowance within such 30-day period shall be a Default by Tenant under the Lease. If the actual costs of the Tenant Improvements are less than the New Allowance, then Landlord shall retain such savings and Tenant shall have no claim to or interest in same, together with appropriate back-up. Landlord reserves the right to charge Tenant a construction management fee in connection with Landlord's performance of the Tenant Improvements, which fee shall be capped at $15,000.00 (and which fee may be paid from the New Allowance) ("**Landlord's Supervision Fee**"). Landlord, or its agents, shall furnish Tenant with written estimates of the cost of the Tenant Improvements in the Final Plans (the "**Tenant Improvements Budget**"). If Tenant shall fail to approve in writing the Tenant Improvements Budget within seven (7) business days after receipt thereof, the Tenant Improvements Budget shall be deemed approved in all respects by Tenant; provided, however, with respect to the first submittal of the Tenant Improvements Budget, Tenant shall have an additional five (5) business days (on top of the seven (7) business days) to value engineer the Tenant Improvements to reduce the budget. Upon the approval (or deemed approval as provided above) of the Tenant Improvements Budget, neither party shall change or modify same without the other party's prior written approval, not to be unreasonably withheld, conditioned or delayed. If Tenant fails to respond to any requested modification or change of same within seven (7) business days after Landlord's written notice of same, then such modification or change to the Tenant Improvements Budget shall be deemed approved. If, however, Tenant approves the Tenant Improvements Budget as furnished by Landlord or as otherwise modified and approved by the parties within such 7-business day period (or it is deemed approved as provided above), Tenant shall pay Landlord within thirty (30) days of said Tenant's approval (or deemed approval, as applicable), the cost of the Tenant Improvements that exceed the New Allowance.

4) Additional Work. Except as set forth in this Exhibit B and except for Landlord's express obligations under the Lease and this Amendment, Landlord has no other agreement or obligation to Tenant to do any build out or other work in the New Space. Any other work in the New Space that Tenant may request and which Landlord may permit shall be at Tenant's sole cost and expense (subject to any funds then remaining in the New Allowance) and in accordance with the terms and conditions set forth in the Lease or herein.

If Tenant shall require other work or materials ("**Additional Work**") in the New Space in addition to the Tenant Improvements, Tenant shall deliver to Landlord for its reasonable approval the necessary additional drawings and specifications (the "**Additional Drawings**") for the Additional Work, which Landlord shall approve unless a Design Problem exists. If Landlord does not approve of the Additional Drawings as delivered by Tenant as a result of a Design Problem, Landlord shall advise Tenant in writing of the changes required in the Additional Drawings so that they will meet with Landlord's approval. Tenant shall cause the Additional Drawings to be revised and delivered to Landlord for Landlord's final review and approval

within seven (7) business days after Tenant's receipt of such advice or Tenant shall be deemed to have abandoned its request for such Additional Work.

Landlord, or its agents, shall furnish Tenant with written estimates of the cost of any Additional Work and shall estimate to what extent such work may cause a delay in the Substantial Completion of the Tenant Improvements. If Tenant shall fail to approve in writing such estimates within seven (7) business days after receipt thereof, the estimates for the Additional Work shall be deemed disapproved in all respects by Tenant, Landlord shall not be authorized or required to proceed with the Additional Work, and Tenant shall work in good faith with Landlord and the general contractor to approve the Additional Work estimates within ten (10) business days following Tenant's receipt of the Additional Work cost estimates. If, however, Tenant approves in writing such estimates as furnished by Landlord within such seven (7) business day period, Tenant shall pay Landlord the cost of such Additional Work within thirty (30) days after Tenant's receipt of invoices therefor from Landlord and prior to construction of such Additional Work. Notwithstanding the foregoing, to the extent the Tenant Improvements are constructed in substantial accordance with the Final Plans, Landlord shall be responsible, at its sole cost and expense (separate from and in addition to the New Allowance), for (i) any work outside of the New Space and in the common areas of the New Building in order to comply with applicable code and law (including the ADA), (ii) correcting any latent defects in the New Building systems, shell and/or core, (iii) the removal or remediation of any Hazardous Materials existing at the New Space as of the New Space Commencement Date in violation of Environmental Law (except to the extent such Hazardous Materials were caused by Tenant or its employees, agents, representatives, consultants or contractors), and (iv) any work to the existing restrooms in the New Space in order to comply with applicable code and law (including ADA) (except to the extent such violation arose from Tenant's specific use of the New Space for other than the permitted use under the Lease or any other work performed or requested by Tenant).

5) Tenant Delays. If Substantial Completion of the Tenant Improvements is actually delayed as a result of any of the following (each, a "**Tenant Delay**"):

(i) Tenant's request for Additional Work or Tenant's failure to furnish the Additional Drawings for the Additional Work, if any, in accordance with subparagraph 5 hereof, or Tenant's failure to approve cost estimates for Additional Work within the time specified in subparagraph 5; or

(ii) Tenant's changes in the Tenant Improvements or Additional Work (notwithstanding Landlord's approval of such changes); or

(iii) The performance or failure to perform any work or improvements in the New Space, by Tenant or any person, firm or corporation employed by Tenant;

(iv) Any act or omission of Tenant or its agents or representatives; or

(v) Any Default by Tenant hereunder or under the Lease beyond applicable notice and cure periods,

then Tenant shall continue to pay Rent with respect to the Current Premises in accordance with the Lease (not modified by this Amendment) and the New Space Commencement Date shall be the date the New Space Commencement Date would have commenced but for such Tenant Delays. If Landlord contends that a Tenant Delay has occurred, Landlord shall notify Tenant in writing of the event which constitutes such Tenant Delay promptly upon Landlord's discovery of same. If such actions, inaction or circumstance described in the notice (the "**Delay Notice**") are not cured by Tenant within one (1) business day of Tenant's receipt of the Delay Notice and if such action, inaction or circumstance otherwise qualify as a Tenant Delay, then a Tenant Delay shall be deemed to have occurred commencing as of the date of the Delay Notice and ending as of the date such delay ends.

6) Miscellaneous Charges. Subject to Landlord's reasonable and non-discriminatory scheduling requirements and rules and regulations, Landlord shall permit Tenant to use the New Building's elevators and related facilities of the New Building to the extent the same is reasonably necessary for Tenant's initial move into the New Space, including the installation of Tenant's furniture, fixtures, and equipment. Landlord shall provide, and neither Tenant nor Tenant's agents nor the contractor or subcontractors shall be charged for the use of, parking (in areas reasonably designated by Landlord), electricity, restrooms, HVAC, water or elevators, during the construction of the Tenant Improvements and Tenant's move into the New Space up until the New Space Commencement Date.

7) Tenant's Equipment. Tenant shall be responsible for the installation of Tenant's audio/visual equipment, and telecommunications equipment, wiring and cabling ("**Tenant's Equipment**"), except for certain infrastructure required to support said Tenant's Equipment which shall be part of the Tenant Improvements. Tenant shall be responsible for removal and restoration of Tenant's Equipment upon expiration of the Lease Term.

EXHIBIT B-1
Space Plan

EXHIBIT C
New Building Façade Signage Location

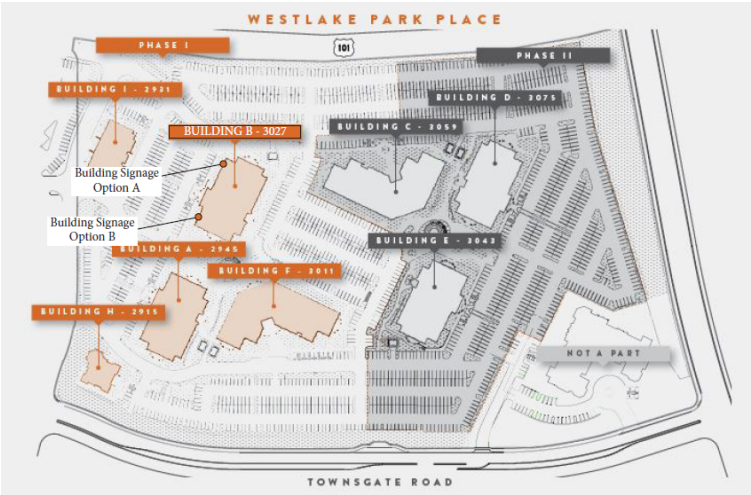

EXHIBIT D
Letter of Credit Terms and Conditions

The Letter of Credit shall be, among other things, (i) subject to the International Standby Practices 1998, International Chamber of Commerce Publication No. 590, (ii) irrevocable and unconditional, (iii) conditioned for payment solely upon presentation of the Letter of Credit and a sight draft, (iv) transferable one or more times by Landlord without the consent of Tenant or the issuing bank, and (v) shall be issued by an FDIC-insured banking institution with a branch office in Los Angeles, California, that meets the "financial standard" and is otherwise reasonably satisfactory to Landlord. As used herein, the term "financial standard" means that the most recent call report or similar statement of condition of the subject bank available on the website of the Federal Financial Institutions Examination Council demonstrates that such bank satisfies the criteria to be considered "well capitalized" pursuant to 12 C.F.R. §6.4, as in effect from time to time.

If a Default by Tenant occurs beyond all the applicable notice and cure periods, Landlord may use, apply or retain the whole or any part of the proceeds of the Letter of Credit for (i) the payment of any Rent, Additional Rent or any other sums of money payable to Landlord hereunder, (ii) the payment of any sum expended by Landlord on Tenant's behalf in accordance with the provisions of this Lease or which the Landlord may expend or be required to expend by reason of such Default, including, without limitation, any damages or deficiency in the reletting of the Premises and any reasonable attorneys' fees and costs in connection with such Default. The use, application or retention of the proceeds of the Letter of Credit or portion thereof by Landlord shall not prevent Landlord from exercising any other right or remedy provided for hereunder or at law and shall not operate as a limitation on any recovery to which Landlord may otherwise be entitled. In the case of every such application or retention of the proceeds of the Letter of Credit, Tenant shall, within ten (10) days from Landlord's demand, cause the existing Letter of Credit held by Landlord to be amended to increase its amount to the original amount or deliver to Landlord an additional Letter of Credit or cash in the amount equal to the sum so applied or retained by Landlord. If the proceeds of the Letter of Credit are insufficient to cover any actual damages sustained by Landlord for Default of Tenant, Tenant shall pay to Landlord within ten (10 business days of demand, in cash, an amount sufficient to fully compensate Landlord for any and all actual damages sustained by Landlord.

Tenant shall pay all costs or fees charged in connection with the Letter of Credit that arise due to the first: (i) Landlord's sale or transfer of all or a portion of the New Building and/or Project; or (ii) the addition, deletion, or modification of any beneficiaries or any other terms of the Letter of Credit, and, in each case, Landlord shall pay for any subsequent item (i) or (ii) events.

The Letter of Credit shall expire not earlier than twelve (12) months after the date of delivery thereof to Landlord and shall provide that same shall be automatically renewed for successive twelve (12) month periods through a date which is not earlier than thirty (30) days after the expiration of the New Term, or any renewal or extension thereof. If the issuing bank does not renew the Letter of Credit, and if Tenant does not deliver a substitute Letter of Credit at

least thirty (30) days prior to the expiration of the current Letter of Credit term, then Tenant shall be in Default of the Lease and Landlord, in addition to its other rights under the Lease, shall have the right to draw on the existing Letter of Credit. Tenant may substitute the Letter of Credit with a new Letter of Credit from a new bank which satisfies the terms of this Exhibit D at any time and Landlord shall return the then existing Letter of Credit to Tenant within five (5) business days after receipt of the substitute Letter of Credit.

Tenant hereby agrees to cooperate, at its expense, with Landlord to promptly execute and deliver to Landlord any and all modifications, amendments, and replacements of the Letter of Credit, as Landlord may reasonably request to carry out the terms and conditions in this Amendment and Exhibit D. The provisions hereof shall survive expiration or termination of the Lease.

SCHEDULE 1

FORM OF LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER _____

ISSUE DATE: April __, 2020

ISSUING BANK:
SILICON VALLEY BANK
3003 TASMAN DRIVE
2ND FLOOR, MAIL SORT HF210
SANTA CLARA, CALIFORNIA 95054

BENEFICIARY:
WESTLAKE PARK PLACE, INC.
C/O INVESCO REAL ESTATE
2001 ROSS AVENUE, SUITE 3400
DALLAS, TEXAS 75201
ATTN: WESTLAKE ASSET MANAGER

APPLICANT:
ARCUTIC BIOTHERAPEUTICS, INC.
2945 TOWNSGATE ROAD, SUITE 110
THOUSAND OAKS, CALIFORNIA 91361
ATTN: FRANK WATANABE

AMOUNT: US$1,542,000.00 (ONE MILLION FIVE HUNDRED FORTY-TWO AND 00/100 U.S. DOLLARS)

EXPIRATION DATE: APRIL __, 2020

PLACE OF EXPIRATION: ISSUING BANK'S COUNTERS AT ITS ABOVE ADDRESS

DEAR SIR/MADAM:

WE HEREBY ESTABLISH OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. SVBSF_____ IN YOUR FAVOR AVAILABLE BY PAYMENT AGAINST YOUR PRESENTATION TO US OF THE FOLLOWING DOCUMENT:

1. BENEFICIARY'S SIGNED AND DATED STATEMENT STATING AS FOLLOWS:

"AN EVENT OF DEFAULT (AS DEFINED IN THE LEASE) HAS OCCURRED UNDER THAT CERTAIN LEASE AGREEMENT BETWEEN ARCUTIS BIOTHERAPEUTICS, INC., AS TENANT, AND WESTLAKE PARK PLACE, INC., AS LANDLORD, AS AMENDED, SUPPLEMENTED OR OTHERWISE MODIFIED TO DATE. THE UNDERSIGNED HEREBY CERTIFIES THAT: (I) THE UNDERSIGNED IS AN AUTHORIZED REPRESENTATIVE OF LANDLORD; (II) LANDLORD IS THE BENEFICIARY OF LETTER OF CREDIT NO. SVBSF _____ ISSUED BY SILICON VALLEY BANK; (III) LANDLORD HAS GIVEN WRITTEN NOTICE TO TENANT TO CURE THE DEFAULT PURSUANT TO THE TERMS OF THE LEASE; (IV) SUCH DEFAULT HAS NOT BEEN CURED UP TO THIS DATE OF DRAWING UNDER THE LETTER OF CREDIT; (V) LANDLORD IS AUTHORIZED TO DRAW DOWN ON THE LETTER OF CREDIT; AND (VI)

LANDLORD WILL HOLD THE FUNDS DRAWN UNDER THE LETTER OF CREDIT AS SECURITY DEPOSIT FOR TENANT OR APPLY SAID FUNDS TO TENANT'S OBLIGATION UNDER THE LEASE. THE AMOUNT HEREBY DRAWN UNDER THE LETTER OF CREDIT IS US$_____, WITH PAYMENT TO BE MADE TO THE FOLLOWING ACCOUNT: [INSERT WIRE INSTRUCTIONS (TO INCLUDE NAME AND ACCOUNT NUMBER OF THE BENEFICIARY)]."

PARTIAL DRAWS AND MULTIPLE PRESENTATIONS ARE ALLOWED.

THIS LETTER OF CREDIT SHALL BE AUTOMATICALLY EXTENDED FOR ADDITIONAL PERIODS OF ONE YEAR, WITHOUT AMENDMENT, FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE UNLESS AT LEAST THIRY (30) DAYS PRIOR TO THE THEN CURRENT EXPIRATION DATE WE SEND TO YOU A NOTICE BY REGISTERED OR CERTIFIED MAIL OR OVERNIGHT COURIER SERVICE AT THE ABOVE ADDRESS THAT THIS LETTER OF CREDIT WILL NOT BE EXTENDED BEYOND THE THEN CURRENT EXPIRATION DATE. IN NO EVENT SHALL THIS LETTER OF CREDIT BE AUTOMATICALLY EXTENDED BEYOND JUNE 30, 2028. IN THE EVENT WE SEND SUCH NOTICE OF NON-EXTENSION, YOU MAY DRAW HEREUNDER BY YOUR PRESENTATION TO US OF YOUR SIGNED AND DATED STATEMENT STATING THAT YOU HAVE RECEIVED A NON-EXTENSION NOTICE FROM SILICON VALLEY BANK IN RESPECT OF LETTER OF CREDIT NO. SVBSF _____, YOU ARE DRAWING ON SUCH LETTER OF CREDIT FOR US$_____, AND YOU HAVE NOT RECEIVED A REPLACEMENT LETTER OF CREDIT ACCEPTABLE TO YOU.

ALL DEMANDS FOR PAYMENT SHALL BE MADE BY PRESENTATION OF THE REQUIRED DOCUMENTS ON A BUSINESS DAY AT OUR OFFICE (THE "BANK'S OFFICE") AT: SILICON VALLEY BANK, 3003 TASMAN DRIVE, MAIL SORT HF 210, SANTA CLARA, CA 95054, ATTENTION: GLOBAL TRADE FINANCE. AS USED IN THIS LETTER OF CREDIT, "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY, SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN THE STATE OF CALIFORNIA ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE.

FACSIMILE PRESENTATIONS ARE ALSO PERMITTED. EACH FACSIMILE TRANSMISSION SHALL BE MADE AT: (408) 496-2418 OR (408) 969-6510; AND UNDER CONTEMPORANEOUS TELEPHONE ADVICE TO: (408) 450-5001 OR (408) 654-7176, ATTENTION: GLOBAL TRADE FINANCE. ABSENCE OF THE AFORESAID TELEPHONE ADVICE SHALL NOT AFFECT OUR OBLIGATION TO HONOR ANY DRAW REQUEST.

THIS LETTER OF CREDIT IS TRANSFERABLE IN WHOLE BUT NOT IN PART ONE OR MORE TIMES, BUT IN EACH INSTANCE ONLY TO A SINGLE BENEFICIARY AS TRANSFEREE AND for THE THEN AVAILABLE AMOUNT, ASSUMING SUCH TRANSFER TO SUCH TRANSFEREE WOULD BE IN COMPLIANCE WITH THEN APPLICABLE LAW AND REGULATION, INCLUDING BUT NOT LIMITED TO THE REGULATIONS OF THE U.S. DEPARTMENT OF TREASURY AND U.S. DEPARTMENT OF COMMERCE. AT THE TIME OF TRANSFER, THE ORIGINAL LETTER OF CREDIT AND ORIGINALS OR COPIES OF ALL AMENDMENTS, IF ANY, TO THIS LETTER OF CREDIT MUST BE SURRENDERED TO US AT OUR ADDRESS INDICATED IN THIS LETTER OF CREDIT TOGETHER WITH OUR TRANSFER FORM ATTACHED HERETO AS EXHIBIT A DULY EXECUTED. APPLICANT SHALL PAY OUR TRANSFER FEE OF ¼ OF 1% OF THE TRANSFER AMOUNT (MINIMUM US$250.00) UNDER THIS LETTER OF CREDIT IN CONNECTION WITH THE FIRST TRANSFER AND BENEFICIARY SHALL PAY OUR TRANSFER FEE IN CONNECTION WITH ANY TRANSFER THEREAFTER. EACH TRANSFER SHALL BE EVIDENCED BY EITHER (1) OUR ENDORSEMENT ON THE REVERSE OF THE LETTER OF CREDIT AND WE SHALL FORWARD THE ORIGINAL OF THE LETTER OF CREDIT SO ENDORSED TO THE TRANSFEREE OR (2) OUR ISSUING A REPLACEMENT LETTER OF CREDIT TO THE TRANSFEREE ON SUBSTANTIALLY THE SAME TERMS AND CONDITIONS AS THE TRANSFERRED LETTER OF CREDIT (IN WHICH EVENT THE TRANSFERRED LETTER OF CREDIT SHALL HAVE NO FURTHER EFFECT).

IF ANY INSTRUCTIONS ACCOMPANYING A DRAWING UNDER THIS LETTER OF CREDIT REQUEST THAT PAYMENT IS TO BE MADE BY TRANSFER TO YOUR ACCOUNT WITH ANOTHER BANK, WE WILL ONLY EFFECT SUCH PAYMENT BY FED WIRE TO A U.S. REGULATED BANK, AND WE AND/OR SUCH OTHER BANK MAY RELY ON AN ACCOUNT NUMBER SPECIFIED IN SUCH INSTRUCTIONS EVEN IF THE NUMBER IDENTIFIES A PERSON OR ENTITY DIFFERENT FROM THE INTENDED PAYEE.

THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES (ISP98), INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 590.

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER _____

EXHIBIT A

FORM OF TRANSFER FORM

DATE: _____

TO: SILICON VALLEY BANK
3003 TASMAN DRIVE
SANTA CLARA, CA 95054
ATTN: GLOBAL TRADE FINANCE
STANDBY LETTERS OF CREDIT

RE: IRREVOCABLE STANDBY LETTER OF CREDIT
NO. _____ ISSUED BY
SILICON VALLEY BANK, SANTA CLARA
L/C AMOUNT: _____

GENTLEMEN:

FOR VALUE RECEIVED, THE UNDERSIGNED BENEFICIARY HEREBY IRREVOCABLY TRANSFERS TO:

_____

(NAME OF TRANSFEREE)

_____

(ADDRESS)

ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY TO DRAW UNDER THE ABOVE LETTER OF CREDIT UP TO ITS AVAILABLE AMOUNT AS SHOWN ABOVE AS OF THE DATE OF THIS TRANSFER.

BY THIS TRANSFER, ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY IN SUCH LETTER OF CREDIT ARE TRANSFERRED TO THE TRANSFEREE. TRANSFEREE SHALL HAVE THE SOLE RIGHTS AS BENEFICIARY THEREOF, INCLUDING SOLE RIGHTS RELATING TO ANY AMENDMENTS, WHETHER INCREASES OR EXTENSIONS OR OTHER AMENDMENTS, AND WHETHER NOW EXISTING OR HEREAFTER MADE. ALL AMENDMENTS ARE TO BE ADVISED DIRECTLY TO THE TRANSFEREE WITHOUT NECESSITY OF ANY CONSENT OF OR NOTICE TO THE UNDERSIGNED BENEFICIARY.

THE ORIGINAL OF SUCH LETTER OF CREDIT IS RETURNED HEREWITH, AND WE ASK YOU TO EITHER (1) ENDORSE THE TRANSFER ON THE REVERSE THEREOF, AND FORWARD IT DIRECTLY TO THE TRANSFEREE WITH YOUR CUSTOMARY NOTICE OF TRANSFER, OR (2) ISSUE A REPLACEMENT LETTER OF CREDIT TO THE TRANSFEREE ON SUBSTANTIALLY THE SAME TERMS AND CONDITIONS AS THE TRANSFERRED LETTER OF CREDIT (IN WHICH EVENT THE TRANSFERRED LETTER OF CREDIT SHALL HAVE NO FURTHER EFFECT).

SINCERELY,

_____
(BENEFICIARY'S NAME)

_____
(SIGNATURE OF BENEFICIARY)

_____
(NAME AND TITLE)

SIGNATURE AUTHENTICATED

The name(s), title(s), and signature(s) conform to that/those on file with us for the company and the signature(s) is/are authorized to execute this instrument.

_____
(Name of Bank)

_____
(Address of Bank)

_____
(City, State, ZIP Code)

_____
(Authorized Name and Title)

_____
(Authorized Signature)

_____
(Telephone number)

EXHIBIT E
List of Existing FFE

Boardroom:
- 1 large conference table
- 18 chairs
- 1 credenza

Executive Side:
- 3 small round conference tables
- 22 guest chairs
- 2 file cabinets
- 6 executive desks with upper cabinets
- 2 workstations
- 1 executive assistant's desk
- 3 settees
- 3 end tables
- 1 task chairs
- 1 conference table/8 chairs
- 3 credenzas
- 1 banquette
- 1 long console table
- 2 lounge chairs

Additional Furniture:
- 7 storage hutches

Large Executive Office:
- 1 large executive desk
- 1 large credenza
- 2 side chairs
- 1 sofa
- 2 lounge chairs
- 1 round conference table/2 chairs
- 1 coffee table
- 1 tall credenza

Opposite Side of Suite:
- 31 workstations
- 2 high file cabinets
- 11 "U-shaped" desks
- 5 left return desks
- 5 right return desks
- 37 side chairs
- 1 conference table/6 chairs
- 10 task chairs
- 12 wood bookshelves
- 5 wood file cabinets
- 7 credenzas
- 2 lounge chairs
- 1 round conference table

Breakroom:
- 2 high tables
- 2 square tables
- 1 round table
- 1 high bar
- 12 chairs
- 8 stools

EXHIBIT F
Existing Monument Sign

EXHIBIT G
Tenant's Reserved Parking Spaces

EXHIBIT H

RENEWAL OPTION

If Tenant is not then in Default beyond applicable notice and cure periods, and Tenant is occupying no less than seventy-five percent (75%) of the New Space at the time of such election, Tenant may renew this Lease with respect to the entire New Space only for one (1) additional period of five (5) years ("**Extension Term**"), by delivering written notice of the exercise thereof to Landlord not earlier than fifteen (15) months nor later than twelve (12) months before the expiration of the New Term. The Base Rent payable for each month during such Extension Term shall be the prevailing rental rate including all relevant business points in comparable transactions, including without limitation, base rent, base rent increases, operating expenses, operating expense protections (including new Base Year), tenant improvement allowances or the approximate value on a rentable per square feet basis for Landlord's build-out, rent abatement and any other market monetary concessions (the "**Prevailing Rental Rate**"), at the commencement of such Extension Term. Upon the commencement of the Extension Term, the Base Year shall be adjusted to be the calendar year in which the first day of the Extension Term occurs. Within thirty (30) days after receipt of Tenant's delivery of the notice to renew within the time periods provided above, Landlord shall deliver to Tenant written notice of the Prevailing Rental Rate and shall advise Tenant of the required adjustment to Base Rent, if any (the "**Rent Adjustment Notice**"). The Prevailing Rental Rate shall take into account completed lease renewal transactions (including, without limitation, base rent, base rent increases, operating expenses, base year, tenant improvement allowances, rent abatement and other monetary concessions) in comparable second-generation spaces in comparable buildings in Westlake Village in the 12-month period prior to Tenant's notice exercising the option set forth herein. Tenant shall, within fifteen (15) business days after receipt of Landlord's notice, notify Landlord in writing whether Tenant accepts or rejects Landlord's determination of the Prevailing Rental Rate. If Tenant fails to respond to Landlord's Rent Adjustment Notice in such 15-business day period, time being of the essence, then Tenant's rights under this Exhibit shall terminate and Tenant shall have no right to extend or renew this Lease.

If Tenant responds to Landlord's Rent Adjustment Notice within such 15-business day period but rejects Landlord's determination of the Prevailing Rental Rate in the Rent Adjustment Notice, then Landlord and Tenant shall attempt to agree on the Prevailing Rental Rate during the Extension Term within thirty (30) days of Tenant's rejection of the Rent Adjustment Notice. If Landlord and Tenant are not able to so agree within such thirty (30) day period, then Landlord and Tenant each, at its sole cost and by giving written notice to the other party, shall appoint a competent and impartial commercial real estate broker (hereinafter "**broker**") with at least ten (10) years' full-time commercial real estate brokerage experience in the geographical area of the New Space to give its determination of the Prevailing Rental Rate for the New Space during the Extension Term. If either Landlord or Tenant does not appoint a broker within ten (10) business days after the other party has given written notice of the name of its broker, the single broker appointed shall be the sole broker and shall conclusively determine the Prevailing Rental Rate during the Extension Term. If two (2) brokers are appointed by Landlord and Tenant as stated in this paragraph, they shall meet promptly and attempt to set the Prevailing Rental Rate. If the two (2) brokers are unable to agree within ten (10) business days after the second broker has been

appointed, then the two (2) brokers shall attempt to select a third broker, meeting the qualifications stated in this paragraph within ten (10) business days after the last day the two (2) brokers are given to set the Prevailing Rental Rate. In addition, each of the two (2) brokers shall submit to the other prior to the end of such second (2nd) ten (10) business day period their respective good faith estimate of the Prevailing Rental Rate. If the two (2) brokers are unable to agree on the third broker, either Landlord or Tenant by giving ten (10) business days' written notice to the other party, can apply to the Presiding Judge of the Superior Court of the county in which the New Space is located for the selection of a third broker who meets the qualifications stated in this paragraph. If either of the first two (2) brokers fails to submit their respective opinion of the Prevailing Rental Rate within the time frames set forth below, then the single Prevailing Rental Rate submitted shall automatically be the Prevailing Rental Rate for the Extension Term and shall be binding upon Landlord and Tenant. Landlord and Tenant each shall bear one-half (½) of the cost of appointing the third broker and of paying the third broker's fee. The third broker, however selected, shall be a person who has not previously acted in any capacity for either Landlord or Tenant. Within fifteen (15) business days after the selection of the third broker, the third broker shall select one of the two Prevailing Rental Rates for the Premises, which may be one or the other of the Prevailing Rental Rates submitted by the first two (2) brokers, or a different rate not greater than the higher nor lower than the lesser of the Prevailing Rental Rates submitted by the first two (2) brokers. The determination of the Prevailing Rental Rate by the third broker shall be conclusive and binding upon Landlord and Tenant.

Upon agreement or determination of the Prevailing Rental Rate as set forth herein, on or before the commencement date of the Extension Term, Landlord and Tenant shall execute an amendment to the Lease extending the Term on the same terms provided in the Lease, except as follows:

(a) Base Rent shall be adjusted to the Prevailing Rental Rate as determined in accordance with this Exhibit H;

(b) Base Year shall be the calendar year in which the first day of the Extension Term occurs;

(c) Tenant shall have no further renewal option unless expressly granted by Landlord in writing; and

(d) Tenant shall accept the New Space in its then-current condition, and Landlord shall not provide to Tenant any allowances (e.g., moving allowance, construction allowance, and the like) or other tenant inducements except as included and determined as part of the Prevailing Rental Rate.

Tenant's rights under this Exhibit H shall terminate if (1) the Lease or Tenant's right to possession of the New Space is terminated, (2) Tenant assigns any of its interest in the Lease or sublets any portion of the New Space except to a Permitted Transferee in accordance with the terms and conditions of the Lease, or (3) Tenant fails to timely exercise its option under this Exhibit, time being of the essence with respect to Tenant's exercise thereof.

Exhibit 31.1

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Todd Franklin Watanabe, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Arcutis Biotherapeutics, 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)) 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 is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) 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

   (c) 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: August 11, 2020

By: /s/ Todd Franklin Watanabe

Todd Franklin Watanabe
President, Chief Executive Officer and Director
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, John W. Smither, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Arcutis Biotherapeutics, 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)) 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 is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) 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

   (c) 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: August 11, 2020

By: /s/ John W. Smither

John W. Smither
Chief Financial Officer
(Principal Accounting and Financial Officer)

Exhibit 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Arcutis Biotherapeutics, Inc. (the "Company") on Form 10-Q for the period ended March 31, 2020, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Todd Franklin Watanabe, Chief Executive Officer of the Company, and John W. Smither, Chief Financial Officer of the Company, respectively, do each hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 11, 2020 By: /s/ Todd Franklin Watanabe

Todd Franklin Watanabe
President, Chief Executive Officer and Director
(Principal Executive Officer)

Date: August 11, 2020 By: /s/ John W. Smither

John W. Smither
Chief Financial Officer
(Principal Accounting and Financial Officer)