UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 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 March 31, 2020

OR

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

For the transition period from _____ to _____

Commission File Number: 001-38112

ATHENEX, INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware	**43-1985966**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
1001 Main Street, Suite 600 Buffalo, NY	
(Address of principal executive offices)	**14203 (Zip Code)**

(716) 427-2950
(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value $0.001 per share	ATNX	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, 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	☐	Small 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 ☒

As of April 30, 2020, the registrant had 81,625,343 shares of common stock, $0.001 par value per share, outstanding.

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PART I—FINANCIAL INFORMATION

Item 1. Condensed Consolidated Financial Statements.

ATHENEX, INC. AND SUBSIDIARIES
Condensed Consolidated Balance Sheets
(unaudited)
(In thousands, except share and per share data)

	March 31, 2020	December 31, 2019
Assets		
Current assets:		
Cash and cash equivalents	$ 71,983	$ 127,674
Short-term investments	41,721	33,139
Accounts receivable, net of chargebacks and other deductions of $14,858 and $14,394, respectively, and provision for credit losses of $130 and $124, respectively	51,418	16,689
Inventories	35,732	32,630
Prepaid expenses and other current assets	17,046	20,794
Total current assets	217,900	230,926
Property and equipment, net	24,616	23,153
Goodwill	38,480	38,513
Intangible assets, net	8,525	8,522
Operating lease right-of-use assets, net	8,266	8,818
Total assets	$ 297,787	$ 309,932
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	$ 18,395	$ 23,331
Accrued expenses	54,739	44,307
Current portion of operating lease liabilities	2,791	3,010
Current portion of long-term debt	871	880
Total current liabilities	76,796	71,528
Long-term liabilities:		
Long-term operating lease liabilities	7,226	7,620
Long-term debt and finance lease obligations	52,896	52,366
Deferred tax liabilities	48	—
Other long-term liabilities	2,585	2,563
Total liabilities	139,551	134,077
Commitments and contingencies (See Note 15)		
Stockholders' equity:		
Common stock, par value $0.001 per share, 250,000,000 shares authorized at March 31, 2020 and December 31, 2019; 83,298,263 and 83,231,063 shares issued at March 31, 2020 and December 31, 2019, respectively; 81,625,343 and 81,558,143 shares outstanding at March 31, 2020 and December 31, 2019, respectively	83	83
Additional paid-in capital	766,253	763,648
Accumulated other comprehensive loss	(1,141)	(635)
Accumulated deficit	(586,894)	(567,465)
Less: treasury stock, at cost; 1,672,920 shares at March 31, 2020 and December 31, 2019	(7,406)	(7,406)
Total Athenex, Inc. stockholders' equity	170,895	188,225
Non-controlling interests	(12,659)	(12,370)
Total stockholders' equity	158,236	175,855
Total liabilities and stockholders' equity	$ 297,787	$ 309,932

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

ATHENEX, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Operations and Comprehensive Loss
(unaudited)
(In thousands, except share and per share data)

	Three Months Ended March 31,	
	2020	**2019**
Revenue:		
Product sales, net	$ 18,547	$ 25,163
License and other revenue	28,388	144
Total revenue	46,935	25,307
Costs and operating expenses:		
Cost of sales	19,572	19,902
Research and development expenses	17,192	24,475
Selling, general, and administrative expenses	25,748	15,188
Total costs and operating expenses	62,512	59,565
Operating loss	(15,577)	(34,258)
Interest income	413	283
Interest expense	1,673	1,755
Loss before income tax expense	(16,837)	(35,730)
Income tax expense	2,881	500
Net loss	(19,718)	(36,230)
Less: net loss attributable to non-controlling interests	(289)	(997)
Net loss attributable to Athenex, Inc.	$ (19,429)	$ (35,233)
Unrealized (loss) gain on investment, net of income taxes	(68)	3
Foreign currency translation adjustment, net of income taxes	(438)	1,068
Comprehensive loss	$ (19,935)	$ (34,162)
Net loss per share attributable to Athenex, Inc. common stockholders, basic and diluted (See Note 12)	$ (0.24)	$ (0.53)
Weighted-average shares used in computing net loss per share attributable to Athenex, Inc. common stockholders, basic and diluted (See Note 12)	81,539,548	67,011,432

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

ATHENEX, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Stockholders' Equity
(unaudited)
(In thousands, except share data)

	Common Stock		Additional paid-in capital	Accumulated deficit	Accumulated other comprehensive income (loss)	Treasury Stock		Total Athenex, Inc. stockholders' equity	Non-controlling interests	Total stockholders' equity
	Shares	Amount				Shares	Amount			
Balance at January 1, 2019	68,668,986	$ 69	$ 591,064	$ (443,716)	$ (656)	(1,672,920)	$ (7,406)	$ 139,355	$ (10,586)	$ 128,769
Stock-based compensation cost	—	—	1,693	—	—	—	—	1,693	—	1,693
Stock options and warrants exercised	49,632	—	278	—	—	—	—	278	—	278
Net loss	—	—	—	(35,233)	—	—	—	(35,233)	(997)	(36,230)
Other comprehensive loss, net of tax	—	—	—	—	1,071	—	—	1,071	—	1,071
Balance at March 31, 2019 (unaudited)	68,718,618	69	593,035	(478,949)	415	(1,672,920)	(7,406)	107,164	(11,583)	95,581

	Common Stock		Additional paid-in capital	Accumulated deficit	Accumulated other comprehensive income (loss)	Treasury Stock		Total Athenex, Inc. stockholders' equity	Non-controlling interests	Total stockholders' equity
	Shares	Amount				Shares	Amount			
Balance at January 1, 2020	83,231,063	$ 83	$ 763,648	$ (567,465)	$ (635)	(1,672,920)	$ (7,406)	$ 188,225	$ (12,370)	$ 175,855
Stock-based compensation cost	—	—	1,864	—	—	—	—	1,864	—	1,864
Restricted stock expense	(3,000)	—	397	—	—	—	—	397	—	397
Stock options exercised	70,200	—	344	—	—	—	—	344	—	344
Net loss	—	—	—	(19,429)	—	—	—	(19,429)	(289)	(19,718)
Other comprehensive loss, net of tax	—	—	—	—	(506)	—	—	(506)	—	(506)
Balance at March 31, 2020 (unaudited)	83,298,263	$ 83	$ 766,253	$ (586,894)	$ (1,141)	(1,672,920)	$ (7,406)	$ 170,895	$ (12,659)	$ 158,236

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

ATHENEX, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Cash Flows
(unaudited)
(In thousands)

	Three Months Ended March 31,	
	2020	**2019**
Cash flows from operating activities:		
Net loss	$ (19,718)	$ (36,230)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	1,086	879
Stock-based compensation expense	2,261	1,778
Amortization of debt discount	256	257
Loss on disposal of assets and impairment charges	173	—
Deferred income taxes	48	486
Changes in operating assets and liabilities:		
Receivables, net	(34,728)	(7,624)
Prepaid expenses and other assets	3,748	(11,911)
Inventories	(3,101)	3,596
Accounts payable and accrued expenses	4,430	15,798
Net cash used in operating activities	(45,545)	(32,971)
Cash flows from investing activities:		
Purchase of property and equipment	(1,736)	(918)
Payments for licenses	(64)	(4,175)
Purchases of short-term investments	(23,571)	—
Sales and maturities of short-term investments	14,920	57,291
Net cash (used in) provided by investing activities	(10,451)	52,198
Cash flows from financing activities:		
Proceeds from issuance of debt	435	743
Proceeds from exercise of stock options	344	278
Repayment of finance lease obligations and long-term debt	(47)	(45)
Net cash provided by financing activities	732	976
Net (decrease) increase in cash and cash equivalents	(55,264)	20,203
Cash and cash equivalents, beginning of period	127,674	49,794
Effect of exchange rate changes on cash and cash equivalents	(427)	1,006
Cash and cash equivalents, end of period	$ 71,983	$ 71,003
Supplemental cash flow disclosures		
Interest paid	$ 1,390	$ 981
Non-cash investing and financing activities:		
Accrued purchases of property and equipment	$ 1,009	$ 634
Accrued purchases of licenses	$ 500	$ —
ROU assets derecognized from modification of operating lease obligations	$ (468)	$ —
ROU assets recognized in exchange for operating lease obligations	$ 353	$ 583

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

1. Company and Nature of Business

Organization and Description of Business

Athenex, Inc. and subsidiaries (the "Company" or "Athenex"), originally under the name Kinex Pharmaceuticals LLC ("Kinex"), formed in November 2003, commenced operations on February 5, 2004, and operated as a limited liability company until it was incorporated in the State of Delaware under the name Kinex Pharmaceuticals, Inc. on December 31, 2012. The Company changed its name to Athenex, Inc. on August 26, 2015.

Athenex is a global biopharmaceutical company dedicated to becoming a leader in the discovery, development and commercialization of next generation drugs for the treatment of cancer. The Company's mission is to improve the lives of cancer patients by creating more effective, safer and tolerable treatments. The Company's current clinical pipeline is derived from Orascovery, Src Kinase Inhibition, T-cell receptor-engineered T-cells ("TCR-T"), and Arginine Deprivation Therapy technology platforms. The Company has assembled a strong and experienced leadership team and has established global operations across the pharmaceutical value chain to execute its goal of becoming a global leader in bringing innovative cancer treatments to the market and improve health outcomes. The Company is primarily engaged in conducting research and development activities through corporate collaborators, in-licensing and out-licensing pharmaceutical compounds and technology, conducting preclinical and clinical testing, recruiting personnel, identifying and evaluating additional drug candidates for potential in-licensing or acquisition, and raising capital to support development and commercialization activities. The Company also conducts commercial sales of specialty products through its wholly owned subsidiary, Athenex Pharmaceutical Division ("APD"), and 503B products through its wholly owned subsidiary, Athenex Pharma Solutions ("APS").

Significant Risks and Uncertainties

The Company has incurred operating losses since its inception and, as a result, as of March 31, 2020 and December 31, 2019 had an accumulated deficit of $586.9 million and $567.5 million, respectively. As of March 31, 2020, the Company had cash and cash equivalents of $72.0 million, which included $8.7 million funded by New York State for the construction of the Dunkirk facility, and short-term investments of $41.7 million. The Company believes that the existing cash, cash equivalents, and short-term investments will be sufficient to fund current operating plans into the first quarter of 2021 but will not be sufficient to fund current operating plans through one year after the date that these condensed consolidated financial statements are issued. The Company has based these estimates on assumptions that may prove to be wrong, and it could spend the available financial resources much faster than expected and need to raise additional funds sooner than anticipated. Operations have been funded primarily through the sale of common stock and, to a lesser extent, from convertible bond financing, a senior secured loan, revenue, and grant funding. The Company will require significant additional funds to conduct clinical trials and to fund its commercialization operations. There can be no assurances, however, that additional funding will be available on favorable terms, or at all. Specifically, disruptions in the capital markets and the operations of commercial partners due to the COVID-19 pandemic may make it difficult for us to raise additional funds. If adequate funds are not available, the Company may be required to delay, modify, or terminate its research and development programs or reduce its planned commercialization efforts. Further, if the Company is unable to obtain additional financing, the Company will need to reevaluate future operating plans. Although the Company's plans to raise additional funds, these plans are subject to market conditions which are outside of its control, and therefore cannot be deemed to be probable; as such, those plans do not alleviate substantial doubt about its ability to continue as a going concern.

These condensed consolidated financial statements have been prepared on a going concern basis, which implies the Company will continue to realize its assets and discharge its liabilities in the normal course of the business. The Company's recurring losses from operations and negative cash flows from operations have raised substantial doubt regarding its ability to continue as a going concern. The condensed consolidated financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts or the amounts and classification of liabilities that might result from the outcome of this uncertainty.

The Company has a senior secured loan agreement with Perceptive Advisors LLC ("Perceptive") which contains various covenants. A breach of any of these covenants could result in a default. If a default under this loan agreement is not cured or waived, the default could result in the acceleration of debt, which could require the Company to repay the debt in full prior to the date it is otherwise due. If the Company defaults, the lender may seek repayment through the Company's subsidiary guarantors or by executing on the security interest granted pursuant to the loan agreement.

The Company is subject to a number of risks similar to other biopharmaceutical companies, including, but not limited to, the lack of available capital, possible failure of preclinical testing or clinical trials, inability to obtain marketing approval of product candidates, competitors developing new technological innovations, unsuccessful commercialization strategy and launch plans for its proprietary drug candidates, market acceptance of the Company's products, and protection of proprietary technology. If the Company does not successfully commercialize any of its product candidates, it will be unable to generate sufficient product revenue and might not, if ever, achieve profitability and positive cash flow.

2. Summary of Significant Accounting Policies

Basis of Presentation and Principles of Consolidation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles in the United States of America ("GAAP") for interim financial information (Accounting Standards Codification ("ASC") 270, *Interim Reporting*) and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, these financial statements do not include all of the information necessary for a full presentation of financial position, results of operations, and cash flows in conformity with GAAP. In the opinion of management, the condensed consolidated financial statements reflect all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation of the results of the Company for the periods presented. These condensed consolidated financial statements reflect the accounts and operations of Athenex, Inc. and those of its subsidiaries in which Athenex, Inc. has a controlling financial interest. Intercompany transactions and balances have been fully eliminated in consolidation.

Results of the Company's operations for the three months ended March 31, 2020 are not necessarily indicative of the results expected for the year ending December 31, 2020, or for any other future annual or interim period. These condensed consolidated financial statements should be read in conjunction with the Company's audited consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2019, filed with the Securities and Exchange Commission ("SEC") on March 2, 2020.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the consolidated financial statements and the reported amount of revenue and expenses during the reporting period. Such management estimates include those relating to assumptions used in clinical research accruals, chargebacks, measurement of acquired assets and assumed liabilities in business combinations, provision for credit losses, inventory reserves, income taxes, the estimated useful life and recoverability of long-lived assets, and the valuation of stock-based awards. Actual results could differ from those estimates.

Credit Losses

The Company estimates and records a provision for its expected credit losses related to its financial instruments, including its trade receivables and contract assets recorded under ASC 606, Revenue from Contracts with Customers, ("Topic 606"). The Company considers historical collection rates, current financial status of its customers, macroeconomic factors, and other industry-specific factors when evaluating for current expected credit losses. Forward-looking information is also considered in the evaluation of current expected credit losses. However, because of the short time to the expected receipt of accounts receivable and contract assets, the Company believes that the carrying value, net of excepted losses, approximates fair value and therefore, relies more on historical and current analysis of such financial instruments.

To determine the provision for credit losses for accounts receivable, the Company has disaggregated its accounts receivable by class of customer, as the Company determined that risk profile of its customers is consistent based on the type and industry in which they operate. These customer classes include pharmaceutical wholesalers for specialty product sales, drug manufacturers for active pharmaceutical ingredient (API) sales, and hospitals and end-users for 503B sales. Each class of customer is analyzed for estimated credit losses individually. In doing so, the Company establishes a historical loss matrix, based on the previous collections of accounts receivable by the age of such receivables, and evaluates the current and forecasted financial position of its customers, as available. Further, the Company considers macroeconomic factors and the status of the pharmaceutical industry, including unemployment rates, industry indices, and other factors, to estimate if there are current expected credit losses within its trade receivables based on the trends and the Company's expectation of the future status of such economic and industry-specific factors. The Company believes that its customers, the majority of which are in the pharmaceutical industries with sound financial condition, and therefore, the Company's evaluation of macroeconomic and industry-specific factors did not have a significant impact on the provision for credit losses. Despite of the recent economic downturn due to Covid-19 and the shutdown of non-essential businesses, the pharmaceutical industry has largely remained in operation due to a designation as "essential business". Pharmaceutical wholesalers are expected to maintain higher inventory levels through the COVID-19 pandemic to minimize disruptions caused by supply chain and logistical issues that arise because of the crisis. With stable financial positions at its major U.S. wholesaler customers, the Company does not anticipate impacts to collection of the receivables from them, which consisted of 84% of our overall product sales revenue for the three months ended March 31, 2020. As of March 31, 2020, the Company recorded a provision for credit losses of less than $0.1 million, $0.1 million, and less than $0.1 million for accounts receivable related to the customer classes of pharmaceutical wholesalers, drug manufacturers, and hospitals and end users, respectively.

Expected credit losses related to contract assets are evaluated on an individual basis. The Company's contract assets relate to upfront fees or milestone payments due from licensees for which the underlying performance obligations have been satisfied. The Company evaluates the financial status of the licensee and any historical payment activity from them. Macroeconomic and industry-specific factors are considered when estimated current expected credit losses related to contract assets. Contract assets are generally classified as short-term, and the Company is in frequent communication with licensees to establish timely payment terms. If the Company expects that credit losses exist for license-related contract assets, it will record provision for such losses against the contract asset. As of March 31, 2020, the Company determined that credit losses related to its contract asset recognized in connection with its license arrangement are not expected to be significant.

Concentration of Credit Risk, Other Risks and Uncertainties

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash and cash equivalents, and short-term investments. The Company deposits its cash equivalents in interest-bearing money market accounts and certificates of deposit, invests in highly liquid U.S. treasury notes and high-quality investment grade commercial paper. The Company deposits its cash with multiple financial institutions. Cash balances exceed federally insured limits. The primary focus of the Company's investment strategy is to preserve capital and meet liquidity requirements. The Company's investment policy addresses the level of credit exposure by limiting the concentration in any one corporate issuer and establishing a minimum allowable credit rating. The Company also has significant assets and liabilities held in its overseas manufacturing facility, and research and development facility in China, and therefore is subject to foreign currency fluctuation.

Recent Accounting Pronouncements Not Yet Adopted

In March 2020, the Financial Accounting Standards Board ("FASB") issued ASU No. 2020-04, "*Reference Rate Reform (Topic 848)*" which provides optional expedients and exceptions for applying generally accepted accounting principles to contracts, hedging relationships, and other transactions that reference London Interbank Offered Rate ("LIBOR") or another reference rate expected to be discontinued because of reference rate reform. The amendments in this update are effective as of March 12, 2020 through December 31, 2022. During 2018, Perceptive issued a senior secured loan to the Company with a principal value of $50.0 million and a maturity date of June 30, 2023. The loan bears interest at a floating per annum rate equal to LIBOR (with a floor of 2.0%) plus 9.0%. The Company is required to make monthly interest-only payments with a bullet payment of the principal at maturity. Provided that, in the event LIBOR can no longer be determined, the parties shall mutually establish an alternative rate of interest and until such time that rate is agreed, the reference rate for purposes of the loan shall be the Wall Street Journal Prime Rate. The ASU guidance allows the Company to account for the modification of the debt contract by prospectively adjusting the effective interest rate. The Company does not expect adoption of this ASU to materially impact the Company's condensed consolidated financial statements.

Recent Adopted Accounting Pronouncements

In June 2016, the FASB issued ASU No. 2016-13, *"Measurement of Credit Losses on Financial Instruments"* to improve reporting requirements specific to loans, receivables, and other financial instruments. The new standard requires that credit losses on financial assets, including trade receivables and held-to-maturity debt securities, measured at amortized cost be determined using an expected loss model, instead of the current incurred loss model. In addition, ASC 326 requires that credit losses related to available-for-sale debt securities be recorded through an allowance for credit losses if the Company does not intend to sell or believes that it is more likely than not they will be require to sell, and limited to the amount by which carrying value exceeds fair value. The new standard also requires enhanced disclosure of credit risk associated with financial assets. The standard is effective for interim and annual periods beginning after December 15, 2019 with early adoption permitted. The standard is required to be applied using the modified retrospective approach with a cumulative-effect adjustment to retained earnings, if any, upon adoption.

This standard became effective for us on January 1, 2020, and based on the composition of our trade receivables, investment portfolio and other financial assets, current economic conditions and historical credit loss activity, the adoption of this standard did not have a material impact on our condensed consolidated financial statements and related disclosures. A significant portion of the Company's accounts receivable is from large pharmaceutical wholesalers in the U.S., and a licensing fee receivable from a public company in PRC. The Company's estimate of expected credit losses as of March 31, 2020, using its expected credit loss evaluation process described above, resulted in no adjustments to the provision for credit losses and no cumulative-effect adjustment to retained earnings on the adoption date of the standard.

Subsequent Events

The Company reviewed and evaluated subsequent events through the issuance date of the Company's unaudited condensed consolidated financial statements.

3. Inventories

Inventories consist of the following (in thousands):

	March 31, 2020	December 31, 2019
Raw materials and purchased parts	$ 5,411	$ 4,176
Work in progress	1,663	1,870
Finished goods	28,658	26,584
Total inventories	$ 35,732	$ 32,630

4. Intangible Assets, net

The Company's identifiable intangible assets, net, consist of the following (in thousands):

	March 31, 2020			
	Cost/Fair Value	Accumulated Amortization	Impairments	Net
Amortizable intangible assets:				
Licenses	$ 9,499	$ 3,956	$ —	$ 5,543
Polymed customer list	1,593	1,228	—	365
Polymed technology	3,712	1,344	—	2,368
Indefinite-lived intangible assets:				
CDE in-process research and development (IPR&D)	723	—	—	723
Effect of currency translation adjustment	(474)	—	—	(474)
Total intangible assets, net	$ 15,053	$ 6,528	$ —	$ 8,525

	December 31, 2019			
	Cost/Fair Value	Accumulated Amortization	Impairments	Net
Amortizable intangible assets				
Licenses	$ 8,935	$ 3,561	$ —	$ 5,374
Polymed customer list	1,593	1,164	—	429
Polymed technology	3,712	1,297	—	2,415
Product rights	530	360	170	—
Indefinite-lived intangible assets:				
CDE in-process research and development (IPR&D)	728	—	—	728
Effect of currency translation adjustment	(424)	—	—	(424)
Total intangibles, net	$ 15,074	$ 6,382	$ 170	$ 8,522

As of March 31, 2020, licenses at cost include an Orascovery license of $0.4 million, licenses purchased from Gland Pharma Limited ("Gland") of $4.4 million, a license purchased from MAIA Pharmaceuticals, Inc. ("MAIA") for $4.0 million, and licenses of other specialty products of $0.7 million. The Orascovery license with Hanmi Pharmaceuticals Co. Ltd. ("Hanmi") was purchased directly from Hanmi and is being amortized on a straight-line basis over a period of 12.75 years, the remaining life of the license agreement at the time of purchase. The licenses purchased from Gland are being amortized on a straight-line basis over a period of 5 years, the remaining life of the license agreement at the time of purchase. The license purchased from MAIA is being amortized over a period of 7 years, the remaining life of the license agreement at the time of purchase.

The remaining intangible assets were acquired in connection with the acquisitions of Polymed Therapeutics, Inc. ("Polymed") and Comprehensive Drug Enterprises ("CDE"). Intangible assets are amortized using an economic consumption model over their useful lives. The Polymed customer list and technology are amortized on a straight-line basis over 6 and 12 years, respectively. The CDE in-process research and development, ("IPR&D"), will not be amortized until the related projects are completed. IPR&D will be tested annually for impairment, unless conditions exist causing an earlier impairment test (e.g., abandonment of project). The Company recorded no impairments of IPR&D during the three months ended March 31, 2020. The weighted-average useful life for all intangible assets was 7.7 years as of March 31, 2020.

The Company recorded $0.5 million of amortization expense for both the three-month periods ended March 31, 2020 and 2019.

The Company's goodwill balance is the result of prior period acquisitions and is allocated to the Global Supply Chain Platform reporting unit and the Oncology Innovation Platform reporting unit. Changes in goodwill balances are due to the effect of foreign currency on goodwill from acquisitions of subsidiaries that have a functional currency other than USD.

5. Fair Value Measurements

Financial instruments consist of cash and cash equivalents, short-term investments, an equity investment, accounts receivable, accounts payable, accrued liabilities, and debt. Short-term investments and the equity investment are stated at fair value. Cash and cash equivalents, accounts receivable, accounts payable and accrued liabilities, and debt, are stated at their carrying value, which approximates fair value due to the short time to the expected receipt or payment date of such amounts.

ASC 820, *Fair Value Measurements*, establishes a framework for measuring fair value. That framework provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (level 1 measurements) and the lowest priority to unobservable inputs (level 3 measurements). The three levels of the fair value hierarchy under the ASC 820 are described as follows:

Level 1—Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Company has the ability to access.

Level 2—Inputs to the valuation methodology include:

- Quoted prices for similar assets or liabilities in active markets;
- Quoted prices for identical or similar assets or liabilities in inactive markets;
- Inputs other than quoted prices that are observable for the asset or liability;
- Inputs that are derived principally from or corroborated by observable market data by correlation or other means; and
- If the asset or liability has a specified (contractual) term, the Level 2 input must be observable for substantially the full term of the asset or liability.

Level 3—Inputs to the valuation methodology are unobservable, supported by little or no market activity, and are significant to the fair value measurement.

Transfers between levels, if any, are recorded as of the beginning of the reporting period in which the transfer occurs. There were no transfers between Levels 1, 2 or 3 for any of the periods presented.

The following tables represent the fair value hierarchy for those assets and liabilities that the Company measures at fair value on a recurring basis (in thousands):

	Fair Value Measurements at March 31, 2020 Using:			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Financial assets included within cash and cash equivalents				
Money market funds	$ 6,616	$ 6,616	$ —	$ —
Short-term investments - certificates of deposit	15,162	—	15,162	—
Short-term investments - commercial paper	25,533	—	25,533	—
Financial assets included within short-term investments				
Short-term investments - certificates of deposit	10,101	—	10,101	—
Short-term investments - commercial paper	31,469	—	31,469	—
Available-for-sale investment	151	151	—	—
Total assets	$ 89,032	$ 6,767	$ 82,265	$ —

	Fair Value Measurements at December 31, 2019 Using:			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Financial assets included within cash and cash equivalents				
Money market funds	$ 5,460	$ 5,460	$ —	$ —
Short-term investments - certificates of deposit	15,110	—	15,110	—
Short-term investments - commercial paper	51,017	—	51,017	—
Financial assets included within short-term investments				
Short-term investments - certificates of deposit	10,054	—	10,054	—
Short-term investments - commercial paper	22,835	—	22,835	—
Available-for-sale investment	250	250	—	—
Total assets	$ 104,726	$ 5,710	$ 99,016	$ —

The Company classifies its money market funds within Level 1 because it uses quoted market prices to determine their fair value. The Company classifies its commercial paper, corporate notes, certificates of deposit, and U.S. government bonds within Level 2 because it uses quoted prices for similar assets or liabilities in active markets and each has a specified term and all Level 2 inputs are observable for substantially the full term of each instrument.

The Company owns 68,000 shares of PharmaEssentia, a company publicly traded on the Taiwan OTC Exchange. As of March 31, 2020 and December 31, 2019, the Company’s investment in PharmaEssentia was valued at the reported closing price on such dates. This investment is classified as a Level 1 investment and is recorded as an available-for-sale investment within short-term investments on the Company’s condensed consolidated balance sheet.

6. Acquisitions and Business Combinations

CIDAL

On June 27, 2019, the Company entered into a definitive asset purchase agreement (the "APA") with CIDAL Limited, a British Virgin Islands company limited by shares, and several of its affiliates ("CIDAL"). CIDAL operates as a contract research organization with headquarters in Guatemala and operations in various countries in Central America. Pursuant to the terms of the APA, the Company acquired certain assets of CIDAL in exchange issuing milestone payments of an aggregate of 67,796 shares of the Company's common stock upon the achievement of certain developmental and regulatory events through the third quarter of 2021. The transactions contemplated by the APA closed on October 31, 2019. The Company believes the acquisition strategically strengthens the Company's clinical research and operations capabilities and further supports its clinical development worldwide. The Company accounted for the asset purchase using the acquisition method of accounting and accordingly, the identifiable assets acquired, and liabilities assumed were recorded based upon management's estimates of current fair values as of the acquisition date. The purchase price reflected contingent equity consideration associated with this transaction. The Company received net cash of $0.9 million, acquired property and equipment of less than $0.1 million, assumed liabilities of $1.1 million, and recorded goodwill of approximately $1.0 million, as well as contingent equity consideration associated with the transaction of $0.8 million.

The operating results of CIDAL have been included within the Company's Oncology Innovation Platform operating segment from the closing date of the acquisition. CIDAL added $0.1 million of revenue and incurred a net loss of $1.0 million for the three months ended March 31, 2020.

7. Accrued Expenses

Accrued expenses consist of the following (in thousands):

	March 31, 2020	December 31, 2019
Accrued construction costs	$ 19,981	$ 22,811
Accrued wages and benefits	8,974	7,541
Accrued inventory purchases	5,792	7,194
Accrued tax withholdings	5,281	187
Accrued selling fees and rebates	3,963	1,577
Accrued costs for product launch	3,953	—
Accrued clinical expenses	3,819	2,510
Accrued operating expenses	2,517	1,885
Accrued R&D licensing fees	384	384
Deferred revenue	75	218
Total accrued expenses	$ 54,739	$ 44,307

The accrued construction costs relate to the building of the manufacturing facility in Dunkirk, NY, and $19.5 million is expected to be funded by New York State. Of this amount, $8.7 million has been received, and the remaining $10.8 million is recorded within prepaid expenses and other current assets on the Company's condensed consolidated balance sheet as of March 31, 2020.

8. Income Taxes

The Company did not record a provision for federal income taxes for the three months ended March 31, 2020 because it expects to generate a loss for the year ending December 31, 2020 and the Company's net deferred tax assets continue to be fully offset by a valuation allowance. Tax expense to date is the result of tax to be withheld in China on a milestone payment in connection with an out-license agreement and recording a deferred tax liability against indefinite lived intangible assets.

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") into law. The CARES Act includes several significant business tax provisions that, among other things, would eliminate the taxable income limit for certain net operating losses ("NOLs") and allow businesses to carry back NOLs arising in 2018, 2019, and 2020 to the five prior tax years, accelerate refunds of previously generated corporate alternative minimum tax credits, change the business interest limitation under IRC section 163(j) of the Internal Revenue Code from 30 percent to 50 percent, and fix qualified improvement property from the Tax Cuts and Jobs Act of 2017. This new legislation did not materially affect the Company's income tax position.

9. Debt and Lease Obligations

Debt

The Company's debt as of March 31, 2020 and December 31, 2019, consists of the following (in thousands):

	March 31, 2020	December 31, 2019
Current portion of mortgage	$ 674	$ 686
Current portion of finance and capital lease obligations	197	194
Current portion of operating lease obligations	2,791	3,010
Long-term portion of finance and capital lease obligations	177	227
Long-term portion of operating lease obligations	7,226	7,620
Chongqing Maliu Credit Agreement	6,055	5,731
Senior secured loan, net of debt discount and financing fees of $3,336 and $3,592, respectively	46,664	46,408
Total	$ 63,784	$ 63,876

The mortgage payments, assumed in connection with the acquisition of CDE, extend through December 31, 2020.

During 2018, Perceptive issued a senior secured loan to the Company with a principal value of $50.0 million and a maturity date of June 30, 2023. The loan bears interest at a floating per annum rate equal to LIBOR (with a floor of 2.0%) plus 9.0%. The Company is required to make monthly interest-only payments with a bullet payment of the principal at maturity. Provided that, in the event LIBOR can no longer be determined, the parties shall mutually establish an alternative rate of interest and until such time that rate is agreed, the reference rate for purposes of the loan shall be the Wall Street Journal Prime Rate.

During the first quarter of 2019, the Company was issued an unsecured, subordinated bank loan from China Merchants Bank to fund operations in China. This loan had a principal value of $0.7 million, a maturity date of December 11, 2019, and bore interest at a fixed rate of 5.7% annually. The loan was paid in full as of December 31, 2019.

During the second quarter of 2019, the Company entered into a credit agreement which amended the existing partnership agreement with Chongqing Maliu Riverside Development and Investment Co., LTD ("CQ"), for a Renminbi ¥50.0 million (USD $7.2 million at March 31, 2020) line of credit to be used for the construction of the new active pharmaceutical ingredient ("API") plant in China. The Company is required to repay the principal amount with accrued interest within three years after the plant receives the U.S. Current Good Manufacturing Practices ("cGMP") certification, with 20% of the total loan with accrued interest is due within the first twelve months following receiving the certification, 30% of the total loan with accrued interest due within twenty-four months, and the remaining balance with accrued interest due within thirty-six months. Interest accrues at the three-year loan interest rate by the People's Bank of China for the same period on the date of the deposit of the full loan amount. If the Company fails to obtain the cGMP certification within three years upon the acceptance of the plant, it shall return all renovation costs with the accrued interest to CQ in a single transaction within the first ten business days. As of March 31, 2020, the balance due to CQ was $6.1 million.

Lease Obligations

The Company has operating leases for office and manufacturing facilities in several locations in the U.S., Asia, and Latin America and has three finance leases for manufacturing equipment used in its facilities near Buffalo, NY. The components of lease expense are as follows (in thousands):

	Three Months Ended March 31, 2020	Three Months Ended March 30, 2019
Operating lease cost	$ 755	$ 781
Finance lease cost:		
Amortization of assets	34	12
Interest on lease liabilities	6	9
Total net lease cost	$ 795	$ 802

The Company has elected to exclude short-term leases from its operating lease right-of-use ("ROU") assets and lease liabilities. Lease costs for short-term leases were not material to the financial statements for the three months ended March 31, 2020. Variable lease costs for the three months ended March 31, 2020 were not material to the financial statements.

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

	March 31, 2020
Finance leases:	
Property and equipment, at cost	$ 688
Accumulated amortization, net	(143)
Property and equipment, net	$ 545
Current obligations of finance leases	$ 197
Long-term portion of finance leases	177
Total finance lease obligations	$ 374
Weighted average remaining lease term (in years):	
Operating leases	5.04
Finance leases	1.86
Weighted average discount rate:	
Operating leases	12.9%
Finance leases	5.9%

Supplemental cash flow information related to leases is as follows (in thousands):

	Three Months Ended March 31, 2020
Cash paid for amount included in the measurements of lease liabilities:	
Operating cash flows from operating leases	$ (820)
Operating cash flows from finance leases	(6)
Financing cash flows from finance leases	(47)
ROU assets derecognized from modification of operating lease obligations	(468)
ROU assets recognized in exchange for operating lease obligations	$ 353

Future minimum payments and maturities of leases is as follows (in thousands):

Year ending December 31:	Operating Leases	Finance Leases
2020 (remaining nine months)	$ 2,278	$ 161
2021	2,837	214
2022	2,617	21
2023	2,096	—
2024	2,002	—
Thereafter	1,950	—
Total lease payments	13,780	396
Less: Imputed interest	(3,763)	(22)
Total lease obligations	10,017	374
Less: Current obligations	(2,791)	(197)
Long-term lease obligations	$ 7,226	$ 177

Pursuant to the public-private partnership agreements with the State of New York and CQ, the Company will rent the manufacturing facilities in Dunkirk, NY and Chongqing, China, respectively. In 2019, construction of the API plant was completed. However, neither lease term had commenced as of March 31, 2020, as neither of the facilities were operational, and no lease costs were incurred in the first quarter of 2020.

The Company exercises judgment in determining the discount rate used to measure the lease liabilities. When rates are not implicit within an operating lease, the Company uses its incremental borrowing rate as its discount rate, which is based on yield trends in the biotechnology and healthcare industry and debt instruments held by the Company with stated interest rates. The Company re-assesses its incremental borrowing rate when new leases arise, or existing leases are modified.

10. Related Party Transactions

During the three months ended March 31, 2020 and 2019, the Company entered into transactions with individuals and companies that have financial interests in the Company. Related party transactions included the following:

a. In June 2018, the Company entered into two in-licensing agreements with Avalon BioMedical (Management) Limited ("Avalon") wherein the Company obtained certain intellectual property ("IP") from Avalon to develop and commercialize the underlying products. Under these agreements the Company is required to pay upfront fees and future milestone payments and sales-based royalties. During the year ended December 31, 2019, the Company recorded a $1.0 million milestone fee paid to Avalon, as research and development expenses on its condensed consolidated statement of operations and comprehensive loss. During the three months ended March 31, 2020 and 2019, no fees were paid to Avalon in connection with the license agreements. Certain members of the Company's board and management collectively have a controlling interest in Avalon. The Company does not hold any interest in Avalon and does not have any obligations to absorb losses or any rights to receive benefits from Avalon. As of March 31, 2020, and December 31, 2019, Avalon held 786,061 shares of the Company's common stock, which represented approximately 1% of the Company's total issued shares for both periods. Balances due from Avalon recorded on the condensed consolidated balance sheets were not significant.

   In June 2019, the Company entered into an agreement whereby Avalon will hold a 90% ownership interest and the Company will hold a 10% ownership interest of the newly formed entity under the name Nuwagen Limited ("Nuwagen"), incorporated under the laws of Hong Kong. Nuwagen is principally engaged in the development and commercialization of herbal medicine products for metabolic, endocrine, and other related indications. The Company will contribute nonmonetary assets in exchange for the 10% ownership interest. As of March 31, 2020, the transaction has not closed.

b. The Company earns licensing revenue from PharmaEssentia, an entity in which the Company has an investment classified as available-for-sale (see Note 5—*Fair Value Measurements*). Funds paid to or received from PharmaEssentia under the license and cost-sharing agreements were not material for the three months ended March 31, 2020, and 2019.

c. The Company receives certain clinical development services from ZenRx Limited and its affiliate ("ZenRx"), a company for which one of the Company's executive officers serves on the board of directors. In connection with such services, the Company made payments to ZenRx of $0.5 and $0.3 million for the three months ended March 31, 2020 and 2019, respectively. In April 2013, the Company entered into a license agreement with ZenRx pursuant to which the Company granted an exclusive, sublicensable license to use certain of the Company's IP to develop and commercialize oral irinotecan and encequidar, and oral paclitaxel and encequidar in Australia and New Zealand, and a non-exclusive license to manufacture a certain compound, but only for use in Oral Irinotecan and Oral Paclitaxel. ZenRx is responsible for all development, manufacturing and commercialization, and the related costs and expenses, of any product candidates resulting from the agreement. No revenue was earned from this license agreement in the periods presented in these consolidated financial statements.

d. Certain family members of executives perform consulting services for the Company. Such services were not significant to the condensed consolidated financial statements.

11. Stock-Based Compensation

Common Stock Option Plans

The Company has four equity compensation plans, adopted in 2017, 2013, 2007 and 2004 (the "Plans") which, taken together, authorize the grant of up to 16,000,000 shares of common stock to employees, directors, and consultants. On May 23, 2019, the board of directors approved the amendment and restatement of the 2017 Omnibus Incentive Plan, which increases the number of shares available for issuance under the 2017 plan by up to 3,500,000 shares, subject to the approval of the Company's stockholders at the Company's 2020 annual meeting of stockholders. During the three months ended March 31, 2020, the Company approved a grant of 797,500 stock options which are contingently issuable upon approval of the increase in shares available by the stockholders. Additionally, on June 14, 2017, the Company adopted its 2017 Employee Stock Purchase Plan (the "ESPP"), which authorizes the issuance of up to 1,000,000 shares of common stock for future issuances to eligible employees.

Stock Options

The total fair value of stock options vested and recorded as compensation expense during the three months ended March 31, 2020 and 2019, was $1.9 million and $1.7 million, respectively. As of March 31, 2020, $13.0 million of unrecognized cost related to non-vested stock options was expected to be recognized over a weighted-average period of approximately 1.56 years. The total intrinsic value of options exercised was approximately $0.8 million and $0.4 million for the three months ended March 31, 2020 and 2019, respectively.

The following table summarizes the status of the Company's stock option activity granted under the Plans to employees, directors, and consultants (aggregate intrinsic value in thousands):

	Stock Options	Weighted-Average Exercise price	Weighted-Average Remaining Contractual Term	Aggregate Intrinsic Value
Outstanding at December 31, 2019	10,916,936	$ 8.88	5.68	$ 69,785
Granted	55,045	7.32	—	—
Exercised	(70,200)	4.84	—	—
Forfeited and expired	(58,550)	14.45	—	—
Outstanding at March 31, 2020	10,843,231	$ 8.87	5.47	$ —
Vested and exercisable at March 31, 2020	8,731,256	$ 7.67	4.88	$ 619

The Company determines the fair value of stock-based awards on the grant date using the Black-Scholes option pricing model, which is impacted by assumptions regarding several highly subjective variables. The following table summarizes the weighted-average assumptions used as inputs to the Black-Scholes model during the periods indicated:

	Three Months Ended March 31, 2020	Three Months Ended March 31, 2019
Weighted average grant date fair value	$ 7.32	$ 8.03
Expected dividend yield	—%	—%
Expected stock price volatility	67%	64%
Risk-free interest rate	0.75%	2.63%
Expected life of options (in years)	5.0	6.3

Employee Stock Purchase Plan

The ESPP is available to eligible employees (as defined in the plan document). Under the ESPP, shares of the Company's common stock may be purchased at a discount (15%) of the lesser of the closing price of the Company's common stock on the first trading or the last trading day of the offering period. The current offering period extends from December 1, 2019 to May 31, 2020. The Company expects to offer six-month offering periods after the current period. The 2017 Plans reserved 1,000,000 shares of common stock for issuance under the ESPP. Stock-based compensation related to the ESPP amounted to $0.1 million for each of the three months ended March 31, 2020 and 2019.

Restricted Stock Awards

The Company granted 131,000 restricted stock awards to employees during 2019. No restricted stock awards were granted during the three months ended March 31, 2020. Stock-based compensation related to the restricted stock awards amounted to $0.4 million for the three months ended March 31, 2020. As of March 31, 2020, $1.0 million of unrecognized cost related to non-vested restricted stock awards were expected to be recognized over a weighted-average period of approximately 0.4 years.

Stock-Based Compensation Cost

The components of stock-based compensation and the amounts recorded within research and development expenses and selling, general, and administrative expenses in the Company's consolidated statements of operations and comprehensive loss consisted of the following for the three months ended March 31, 2020 and 2019 (in thousands):

	Three Months Ended March 31,	
	2020	2019
Stock options	$ 1,864	$ 1,693
Restricted stock expense	397	—
Employee stock purchase plan	70	85
Total stock-based compensation expense	$ 2,331	$ 1,778
Cost of sales	$ 54	$ 64
Research and development expenses	946	591
Selling, general, and administrative expenses	1,331	1,123
Total stock-based compensation expense	$ 2,331	$ 1,778

12. Net Loss per Share Attributable to Athenex, Inc. Common Stockholders

Basic net loss per share is calculated by dividing net loss attributable to Athenex, Inc. common stockholders by the weighted-average number of common shares issued, outstanding, and vested during the period. Diluted net loss per share is computed by dividing net loss attributable to common stockholders by the weighted-average number of common stock and common stock equivalents for the period using the treasury-stock method. For the purposes of this calculation, warrants to purchase common stock and stock options are considered common stock equivalents but are only included in the calculation of diluted net loss per share when their effect is dilutive.

The following outstanding shares of common stock equivalents were excluded from the calculation of diluted net loss per share attributable to common stockholders for the periods presented because including them would have been antidilutive:

	Three Months Ended March 31,	
	2020	2019
Stock options and other common stock equivalents	11,347,475	11,219,839
Unvested restricted shares	105,000	—
Total potential dilutive shares	11,452,475	11,219,839

13. Business Segment, Geographic, and Concentration Risk Information

The Company has three operating segments, which are organized based mainly on the nature of the business activities performed and regulatory environments in which they operate. The Company also considers the types of products from which the reportable segments derive their revenue (only applicable to two reportable segments). Each operating segment has a segment manager who is held accountable for operations and has discrete financial information that is regularly reviewed by the Company's chief operating decision-maker. Consequently, the Company has concluded each operating segment to be a reportable segment. The Company's operating segments are as follows:

Oncology Innovation Platform— This operating segment performs research and development on certain of the Company's proprietary drugs, from the preclinical development of its chemical compounds, to the execution and analysis of its several clinical trials. It focuses specifically on Orascovery and Src Kinase Inhibition research platforms, and TCR-T Immunotherapy and Arginine Deprivation Therapy. This segment operates in the United States, Taiwan, Hong Kong, mainland China, the United Kingdom, and Latin America.

Global Supply Chain Platform— This operating segment includes APS and Polymed and the construction of the manufacturing facilities in Chongqing, China and Dunkirk, New York. APS is a contract manufacturing company that provides small to mid-scale cGMP manufacturing of clinical and commercial products for pharmaceutical and biotech companies and for use as internal supplies to the clinical studies and commercial development of the Company's proprietary drugs. APS also performs microbiological and analytical testing for raw material and formulated products and has expanded to manufacture and sell pharmaceutical products under Section 503B of the Compounding Quality Act within the Federal Food, Drug & Cosmetic Act ("FDCA"). Polymed is primarily in the

business of marketing and selling API in North America, Europe, and Asia from its locations in Texas and China. Polymed also develops new compounds and processing techniques, and recently completed construction of a new API manufacturing facility in Chongqing, China. The 440,000-square-foot facility is expected to commence operations in the second half of 2020. The Company has an existing API manufacturing facility in Chongqing, China, where operations were suspended as a result of the COVID-19 outbreak in China but resumed producing API in March in accordance with local regulatory guidance.

Commercial Platform— This operating segment includes APD and Athenex Oncology, which focus on the manufacturing, distribution, and sales of specialty pharmaceuticals and the pre-launch commercial activities for the Company's proprietary drugs, respectively. This segment provides services and products to external customers based mainly in the United States.

The Company's Oncology Innovation Platform segment operates and holds long-lived assets located in the United States, Taiwan, Hong Kong, mainland China, the United Kingdom, and Latin America. The Global Supply Chain Platform segment operates and holds long-lived assets located in the United States and China. The Commercial Platform segment operates and holds long-lived assets located in the United States. For geographic segment reporting, product sales have been attributed to countries based on the location of the customer.

Segment information is as follows (in thousands):

	Three Months Ended March 31,	
	2020	2019
Total revenue:		
Oncology Innovation Platform	$ 28,387	$ 144
Global Supply Chain Platform	3,714	11,339
Commercial Platform	15,542	14,675
Total revenue for reportable segments	47,643	26,158
Intersegment revenue	(708)	(851)
Total consolidated revenue	$ 46,935	$ 25,307

Intersegment revenue eliminated in the above table reflects sales from the Global Supply Chain Platform to the Oncology Innovation Platform.

	Three Months Ended March 31,	
	2020	2019
Total revenue by product group:		
License fees	$ 28,381	$ —
Commercial product sales	17,502	20,081
API sales	1,022	4,831
Contract manufacturing revenue	23	251
Other revenue	7	144
Total consolidated revenue	$ 46,935	$ 25,307

Intersegment revenue is recognized by the selling segment when its customer obtains control of promised goods or services, in an amount that reflects the consideration which it expects to receive in exchange for those goods or services. Upon consolidation, all intersegment revenue and related cost of sales are eliminated from the selling segment's ledger.

	Three Months Ended March 31,	
	2020	2019
Net loss attributable to Athenex, Inc.:		
Oncology Innovation Platform	$ (958)	$ (27,603)
Global Supply Chain Platform	(5,986)	(767)
Commercial Platform	(12,485)	(6,863)
Total consolidated net loss attributable to Athenex, Inc.	$ (19,429)	$ (35,233)

	Three Months Ended March 31,	
	2020	2019
Total depreciation and amortization:		
Oncology Innovation Platform	$ 175	$ 189
Global Supply Chain Platform	496	311
Commercial Platform	415	379
Total consolidated depreciation and amortization	$ 1,086	$ 879

	March 31, 2020	December 31, 2019
Total assets:		
Oncology Innovation Platform	$ 156,358	$ 194,183
Global Supply Chain Platform	81,930	63,598
Commercial Platform	59,499	52,151
Total consolidated assets	$ 297,787	$ 309,932

	Three Months Ended March 31,	
	2020	2019
Total revenue:		
China	$ 28,513	$ 386
United States	17,522	20,335
India	—	777
Austria	—	2,173
United Kingdom	—	1,023
Other foreign countries	900	613
Total consolidated revenue	$ 46,935	$ 25,307

	March 31, 2020	December 31, 2019
Total property and equipment, net:		
United States	$ 12,467	$ 11,486
China	12,149	11,667
Total consolidated property and equipment, net	$ 24,616	$ 23,153

Customer revenue and accounts receivable concentration amounted to the following for the identified periods. These customers relate to the Commercial Platform segment and the Global Supply Chain Platform segment.

	Three Months Ended March 31,	
	2020	2019
Percentage of total revenue by customer:		
Customer A	60%	0%
Customer B	11%	22%
Customer C	9%	21%
Customer D	7%	12%

	March 31, 2020	December 31, 2019
Percentage of total accounts receivable by customer:		
Customer A	58%	0%
Customer B	14%	45%
Customer C	13%	31%
Customer D	8%	10%

14. Revenue Recognition

The Company records revenue in accordance with ASC, Topic 606 "*Revenue from Contracts with Customers*." Under Topic 606, the Company recognizes revenue when its customer obtains control of promised goods or services, in an amount that reflects the consideration which it expects to receive in exchange for those goods or services. To determine revenue recognition for arrangements that the Company determines are within the scope of Topic 606, the entity performs the following five steps: (i) identifies the contract(s) with a customer; (ii) identifies the performance obligations in the contract; (iii) determines the transaction price; (iv) allocates the transaction price to the performance obligations in the contract; and (v) recognizes revenue when (or as) the entity satisfies a performance obligation. The Company only applies the five-step model to contracts when it is probable that the entity will collect the consideration it is entitled to in exchange for the goods or services it transfers to the customer. Below is a description of principal activities – separated by reportable segments – from which the Company generates its revenue.

1. Oncology Innovation Platform

The Company out-licenses certain of its IP to other pharmaceutical companies in specific territories that allow the customer to use, develop, commercialize, or otherwise exploit the licensed IP. In accordance with Topic 606, the Company analyzes the contracts to identify its performance obligations within the contract. Most of the Company's out-license arrangements contain multiple performance obligations and variable pricing. After the performance obligations are identified, the Company determines the transaction price, which generally includes upfront fees, milestone payments related to the achievement of developmental, regulatory, or commercial goals, and royalty payments on net sales of licensed products. The Company considers whether the transaction price is fixed or variable, and whether such consideration is subject to return. Variable consideration is only included in the transaction price to the extent that it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur when the uncertainty associated with the variable consideration is subsequently resolved. If any portion of the transaction price is constrained, it is excluded from the transaction price until the constraint no longer exists. The Company then allocates the transaction price to the performance obligation to which the consideration is related. Where a portion of the transaction price is received and allocated to continuing performance obligations under the terms of the arrangement, it is recorded as deferred revenue and recognized as revenue when (or as) the underlying performance obligation is satisfied.

The Company's contracts may contain one or multiple promises, including the license of IP and development services. The licensed IP is capable of being distinct from the other performance obligations identified in the contract and is distinct within the context of the contract, as upon transfer of the IP, the customer is able to use and benefit from it, and the customer could obtain the development services from other parties. The Company also considers the economic and regulatory characteristics of the licensed IP and other promises in the contract to determine if it is a distinct performance obligation. The Company considers if the IP is modified or enhanced by other performance obligations through the life of the agreement and whether the customer is contractually or practically required to use updated IP. The IP licensed by the Company has been determined to be functional IP. The IP is not modified during the license period and therefore, the Company recognizes revenues from any portion of the transaction price allocated to the licensed IP when the license is transferred to the customer and they can benefit from the right to use the IP. For the three months ended March 31, 2020, the Company recognized revenue of $28.3 million, net of $1.7 million value added tax ("VAT") collected on behalf of the third party when it had transferred the IP to the customer, and recognized $0 for the same period ended March 31, 2019.

Other performance obligations included in most of the Company's out-licensing agreements include performing development services to reach clinical and regulatory milestone events. The Company satisfies these performance obligations at a point-in-time, because the customer does not simultaneously receive and consume the benefits as the development occurs, the development does not create or enhance an asset controlled by the customer, and the development does not create an asset with no alternative use. The Company considers milestone payments to be variable consideration measured using the most likely amount method, as the entitlement to the consideration is contingent on the occurrence or nonoccurrence of future events. The Company allocates each variable milestone payment to the associated milestone performance obligation, as the variable payment relates directly to the Company's efforts to satisfy the performance obligation and such allocation depicts the amount of consideration to which the Company expects to be entitled for satisfying the corresponding performance obligation. The Company re-evaluates the probability of achievement of such performance obligations and any related constraint and adjusts its estimate of the transaction price as appropriate. To date, no amounts have been constrained in the initial or subsequent assessments of the transaction price. The Company recognized revenue allocated to development performance obligations upon transfer to the customer of $0 for each of the three months ended March 31, 2020 and 2019.

Certain out-license agreements include performance obligations to manufacture and provide drug product in the future for commercial sale when the licensed product is approved. For the commercial, sales-based royalties, the consideration is predominantly related to the licensed IP and is contingent on the customer's subsequent sales to another commercial customer. Consequently, the sales- or usage-based royalty exception would apply. Revenue will be recognized for the commercial, sales-based milestones as the underlying sales occur.

The Company exercises significant judgment when identifying distinct performance obligations within its out-license arrangements, determining the transaction price, which often includes both fixed and variable considerations, and allocating the transaction price to the proper performance obligation. The Company did not use any other significant judgments related to out-licensing revenue during the three months ended March 31, 2020 and 2019.

2. Global Supply Chain Platform

The Company's Global Supply Chain Platform manufactures API for use internally in its research and development activities as well as its clinical studies, and for sale to pharmaceutical customers globally. The Company generates additional revenue on this platform, by providing small to mid-scale cGMP manufacturing of clinical and commercial products for pharmaceutical and biotech companies and selling pharmaceutical products under 503B regulations set forth by the FDA.

Revenue earned by the Global Supply Platform is recognized when the Company has satisfied its performance obligation, which is the shipment or the delivery of drug products. The underlying contracts for these sales are generally purchase orders and the Company recognizes revenue at a point-in-time. Any remaining performance obligations related to product sales are the result of customer deposits and are reflected in the deferred revenue contract liability balance.

3. Commercial Platform

The Company's Commercial Platform generates revenue by distributing specialty products through independent pharmaceutical wholesalers. The wholesalers then sell to an end-user, normally a hospital, alternative healthcare facility, or an independent pharmacy, at a lower price previously established by the end-user and the Company. Upon the sale by the wholesaler to the end-user, the wholesaler will chargeback the difference between the original list price and price at which the product was sold to the end-user. The Company also offers cash discounts, which approximate 2.3% of the gross sales price, as an incentive for prompt customer payment, and, consistent with industry practice, the Company's return policy permits customers to return products within a window of time before and after the expiration of product dating. Further, the Company offers contractual allowances, generally rebates or administrative fees, to certain wholesale customers, group purchasing organizations ("GPOs"), and end-user customers, consistent with pharmaceutical industry practices. Revenues are recorded net of provisions for variable consideration, including discounts, rebates, GPO allowances, price adjustments, returns, chargebacks, promotional programs and other sales allowances. Accruals for these provisions are presented in the consolidated financial statements as reductions in determining net sales and as a contra asset in accounts receivable, net (if settled via credit) and other current liabilities (if paid in cash). As of March 31, 2020, and December 31, 2019, the Company's total provision for chargebacks and other deductions included as a reduction of accounts receivable totaled $14.9 million and $14.4 million, respectively. The Company's total provision for chargebacks and other revenue deductions was $24.9 million, and $17.5 million for the three months ended March 31, 2020, and 2019, respectively.

The Company exercises significant judgment in its estimates of the variable transaction price at the time of the sale and recognizes revenue when the performance obligation is satisfied. Factors that determine the final net transaction price include chargebacks, fees for service, cash discounts, rebates, returns, warranties, and other factors. The Company estimates all of these variables based on historical data obtained from previous sales finalized with the end-user customer on a product-by-product basis. At the time of sale, revenue is recorded net of each of these deductions. Through the normal course of business, the wholesaler will sell the product to the end-user, determining the actual chargeback, return products, and take advantage of cash discounts, charge fees for services, and claim warranties on products. The final transaction price per product is compared to the initial estimated net sale price and reviewed for accuracy. The final prices and other factors are immediately included in the Company's historical data from which it will estimate the transaction price for future sales. The underlying contracts for these sales are generally purchase orders including a single performance obligation, generally the shipment or delivery of products and the Company recognizes this revenue at a point-in-time.

Disaggregation of revenue

The following represents the Company's revenue for its reportable segment by country, based on the locations of the customer.

	For the Three Months Ended March 31, 2020 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidated Total
China	$ 28,308	$ 205	$ —	$ 28,513
United States	—	1,980	15,542	17,522
Other foreign countries	79	821	—	900
Total revenue	$ 28,387	$ 3,006	$ 15,542	$ 46,935

	For the Three Months Ended March 31, 2019 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidated Total
United States	$ —	$ 5,660	$ 14,675	$ 20,335
Austria	—	2,173	—	2,173
United Kingdom	—	1,023	—	1,023
India	—	777	—	777
China	144	242	—	386
Other foreign countries	—	613	—	613
Total revenue	$ 144	$ 10,488	$ 14,675	$ 25,307

The Company also disaggregates its revenue by product group which can be found in Note 13 – *Business Segment, Geographic, and Concentration Risk Information*.

Contract balances

The following table provides information about receivables and contract liabilities from contracts with customers. The Company has not recorded any contract assets from contracts with customers.

	March 31, 2020	December 31, 2019
	(In Thousands)	
Accounts receivable, gross	$ 66,406	$ 31,207
Chargebacks and other deductions	(14,858)	(14,394)
Provision for credit losses	(130)	(124)
Accounts receivable, net	$ 51,418	$ 16,689
Deferred revenue	75	218
Total contract liabilities	$ 75	$ 218

The following tables illustrate accounts receivable and contract asset balances by reportable segments.

	March 31, 2020 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidated Total
Accounts receivable, gross	$ 30,110	$ 1,505	$ 34,791	$ 66,406
Chargebacks and other deductions	—	(1)	(14,857)	(14,858)
Provision for credit losses	—	(116)	(14)	(130)
Accounts receivable, net	30,110	1,388	19,920	51,418

	December 31, 2019 (In Thousands)			
	Oncology Innovation Platform	Global Supply Chain Platform	Commercial Platform	Consolidated Total
Accounts receivable, gross	$ 49	$ 1,522	$ 29,636	$ 31,207
Chargebacks and other deductions	—	(1)	(14,393)	(14,394)
Provision for credit losses	—	(114)	(10)	(124)
Accounts receivable, net	$ 49	$ 1,407	$ 15,233	$ 16,689

As of March 31, 2020, $30.0 million of accounts receivable, net, related to an upfront fee receivable in connection with the license agreement entered into with Guangzhou Xiangxue Pharmaceutical Co., Ltd (“Xiangxue”) in December 2019 (the “2019 Xiangxue License Agreement”). During the three months ended March 31, 2020, the Company satisfied its performance obligation under the 2019 Xiangxue License Agreement to deliver to Xiangxue a license of functional IP and the data required to use and benefit from the use of the IP. The Company recorded $28.3 million of consideration receivable, net of $1.7 million VAT, that was allocated to the performance obligation. This amount is recorded within accounts receivable, net on the Company’s condensed consolidated balance sheet.

As of March 31, 2020, $0.1 million of the deferred revenue balance relates to customer deposits made by customers of the Global Supply Chain Platform and is included within accrued expenses on the condensed consolidated balance sheet. Upon the delivery of certain drug product, the Company will recognize revenue of $0.1 million. Other amounts included within the deferred revenue balance are not material to the consolidated financial statements.

As of December 31, 2019, $0.2 million of the deferred revenue balance relates to customer deposits made by customers of the Global Supply Chain Platform and is included within accrued expenses on the consolidated balance sheet. Upon delivery of certain drug product, the Company will recognize revenue of $0.2 million. Other amounts included within the deferred revenue balance are not material to the consolidated financial statements.

There were no other material changes to contract balances during the three months ended March 31, 2020.

15. Commitments and Contingencies

Future minimum payments under the non-cancelable operating leases consists of the following as of March 31, 2020 (in thousands):

Year ending December 31:	Minimum payments
2020 (remaining nine months)	$ 2,278
2021	2,837
2022	2,617
2023	2,096
2024	2,002
Thereafter	1,950
	$ 13,780

Legal Proceedings

From time to time, the Company may become subject to other legal proceedings, claims and litigation arising in the ordinary course of business. In addition, the Company may receive letters alleging infringement of patent or other intellectual property rights. The Company is not currently a party to any other material legal proceedings, nor is it aware of any pending or threatened litigation that, in the Company’s opinion, would have a material adverse effect on the business, operating results, cash flows or financial condition should such litigation be resolved unfavorably.

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

The following discussion contains management's discussion and analysis of our financial condition and results of operations and should be read together with the unaudited condensed consolidated financial statements and the notes thereto included in Part I, Item 1 of this Quarterly Report on Form 10-Q and with our audited consolidated financial statements and related notes thereto for the year ended December 31, 2019 included in our Annual Report on Form 10-K for the year ended December 31, 2019. Unless the context indicates otherwise, as used in this Quarterly Report, the terms "Athenex," the "Company," "we," "us," and "our" refer to Athenex, Inc., a Delaware corporation, and its subsidiaries taken as a whole, unless otherwise noted. This discussion and other parts of this quarterly report contain forward-looking statements that involve risks and uncertainties, such as our plans, objectives, expectations, intentions and beliefs. Our actual results could differ materially from those discussed in these forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those identified below and those discussed in the section entitled "Risk Factors" included in our Annual Report on Form 10-K for the year ended December 31, 2019.

NOTE ABOUT FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and section 27A of the Securities Act of 1933, as amended (the "Securities Act"). All statements other than statements of historical fact are "forward-looking statements" for purposes of this Quarterly Report. These forward-looking statements may include, but are not limited to, statements regarding our future results of operations and financial position, business strategy, potential market size, potential growth opportunities, the timing and results of clinical trials, and potential regulatory approval and commercialization of product candidates. In some cases, forward-looking statements may be identified by terminology such as "believe," "may," "will," "should," "predict," "goal," "strategy," "potentially," "estimate," "continue," "anticipate," "intend," "could," "would," "project," "plan," "expect," "seek" and similar expressions and variations thereof. These words are intended to identify forward-looking statements.

We have based these forward-looking statements largely on our current expectations and projections about future events and trends that we believe may affect our financial condition, results of operations, business strategy, short-term and long-term business operations and objectives and financial needs. These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described in the "Risk Factors" section included in our Annual Report on Form 10-K for the year ended December 31, 2019. Moreover, we operate in a very competitive and rapidly changing environment, and new risks emerge from time to time. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business. In light of these risks, uncertainties and assumptions, actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements.

You should not rely upon forward-looking statements as predictions of future events. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee that the future results, levels of activity, performance or events and circumstances reflected in the forward-looking statements will be achieved or occur. We undertake no obligation to update publicly any forward-looking statements for any reason after the date hereof to conform these statements to actual results or to changes in our expectations, except as required by law.

Overview and Recent Developments

We are a global biopharmaceutical company dedicated to becoming a leader in the discovery, development and commercialization of next generation drugs for the treatment of cancer. Our mission is to improve the lives of cancer patients by creating more effective, safer and tolerable treatments. We have assembled a strong and experienced leadership team and have established global operations across the pharmaceutical value chain to execute our goal of becoming a global leader in bringing innovative cancer treatments to the market and improving health outcomes.

We are organized around three operating segments: (1) our Oncology Innovation Platform, dedicated to the research and development of our proprietary drugs; (2) our Commercial Platform, focused on the sales and marketing of our specialty drugs and the market development of our proprietary drugs; and (3) our Global Supply Chain Platform, dedicated to providing a stable and efficient supply of APIs for our clinical and commercial efforts. Our current clinical pipeline in the Oncology Innovation Platform is derived from four different proprietary technologies: (1) Orascovery, based on a P-glycoprotein or P-gp, pump, inhibitor, (2) Src Kinase inhibition, (3) TCR-T immunotherapy, and (4) arginine deprivation therapy.

Significant developments in our Orascovery platform include the following:

On April 9, 2020, we announced that we participated in a constructive meeting with the U.S. Food and Drug Administration (FDA) as scheduled, to discuss the clinical section of our New Drug Application (NDA) for oral paclitaxel and encequidar ("Oral Paclitaxel") for the treatment of metastatic breast cancer. We are on track to submit the NDA in accordance with the FDA's guidance, and will provide a further update when the FDA's official response to the filing becomes available.

We announced topline results in August 2019 for our Phase 3 study of Oral Paclitaxel for the treatment of metastatic breast cancer and presented further data of the Phase 3 study in an oral presentation at the 2019 San Antonio Breast Cancer Symposium, or SABCS, in December 2019. Results demonstrated that the study met its primary endpoint showing statistically significant improvement in overall response rate for Oral Paclitaxel compared to intravenous ("IV") paclitaxel and neuropathy was less frequent with Oral Paclitaxel compared to IV paclitaxel. In addition, ongoing analysis of secondary endpoints of survival showed a strong trend favoring Oral Paclitaxel. In particular, Oral Paclitaxel showed a statistically significant improvement in overall survival compared to IV paclitaxel in the prespecified modified intention-to-treat population.

We are also evaluating Oral Paclitaxel in the treatment of angiosarcoma and in combination with other therapies, including anti-VEGF and anti-PD-1 therapies. In May 2019, we announced early and complete response data from a clinical study of Oral Paclitaxel in cutaneous angiosarcoma, and the study is continuing to enroll. Oral Paclitaxel also received Orphan Designations from the European Commission for the treatment of soft tissue sarcoma in October 2019. We are also studying Oral Paclitaxel with ramucirumab in a Phase 1b study in patients with advanced gastric cancer who failed previous chemotherapy. We presented results from the study at the 2019 European Society for Medical Oncology (ESMO) Congress on the first three patient cohorts and are continuing to advance in the expansion phase of the study. Our Phase 1/2 study of Oral Paclitaxel in combination with pembrolizumab, or Keytruda, in patients with advanced solid malignancies is ongoing.

In addition to the progress made with respect to our lead product candidate, we continued to advance our other Orascovery product candidates in 2019. We presented preliminary results with respect to our Phase 1 study of Oral Irinotecan at the American Society of Clinical Oncology annual meeting in May 2019 ("2019 ASCO Annual Meeting"). We are planning Phase 2 studies for both oral irinotecan and encequidar ("Oral Irinotecan") and oral docetaxel and encequidar ("Oral Docetaxel"). A Phase 1 study of oral eribulin and encequidar ("Oral Eribulin") in patients with solid tumors is ongoing.

We intend to establish Oral Paclitaxel as the chemotherapy of choice for patients receiving chemotherapy for metastatic breast cancer and intend to file a NDA with the FDA in 2020 to secure regulatory approval of Oral Paclitaxel for metastatic breast cancer, although we can provide no assurance that we will be successful in obtaining the FDA's approval to commercialize Oral Paclitaxel. If we receive regulatory approval from the FDA, we plan to explore establishing Oral Paclitaxel in other oncology indications where we believe taxanes will continue to be a foundational treatment and continue to explore combination therapies. Our strategy is to develop and, if we receive approval from the FDA, commercialize Oral Paclitaxel in the U.S. through our Commercial Platform. We also plan to evaluate marketing options outside of the U.S., including using our internal resources, partnering with others, or out-licensing the product. In 2020, we plan to focus on:

- quantitative and qualitative market research, including on health outcomes and qualitative pricing, to understand our customers, patients, and the market;
- examining our competitive landscape;
- developing brand strategy;
- developing key opinion leader relationships;
- attending priority medical conferences to increase awareness of the Company and Oral Paclitaxel;
- creating a market access strategy;
- developing and executing a scientific publication plan;
- developing our patient and patient advocacy strategy;
- completing account, physician and patient segmentation in order to prioritize and target commercial efforts effectively;
- developing our distribution and patient support plans;
- developing our patient adherence to therapy strategy;

- completing our organizational design to determine the overall size of our go-to-market commercial team based on our market opportunity;
- continuing to hire key commercial and medical affairs leadership roles;
- completing a life cycle plan for Oral Paclitaxel; and
- preliminary marketing and launching forecasts.

We can provide no assurance that we will be successful in obtaining the FDA's approval to commercialize Oral Paclitaxel.

Significant developments in our Src Kinase inhibition platform include the following:

In March 2020, we announced that the FDA has completed its filing review and determined that our NDA for tirbanibulin ointment (formerly known as KX2-391 or KX-01 ointment) for the treatment of actinic keratosis (AK) is sufficiently complete to permit a substantive review. Under the Prescription Drug User Fee Act (PDUFA), the FDA has set a target action date of December 30, 2020. Additionally, the FDA has communicated that it is not currently planning on holding an advisory committee to discuss the application. In March 2020, Almirall also announced that the European Medicines Agency (EMA) accepted the filing of a European marketing authorization for tirbanibulin ointment for the treatment of AK.

We completed two Phase 3 studies for tirbanibulin ointment in the treatment of AK and presented topline results from the two Phase 3 studies in a late breaker session at the 2019 annual meeting of the American Academy of Dermatology (AAD). The results showed that both studies achieved their primary endpoint with 44% and 54% of patients in studies KX01-AK-003 and KX01-AK-004, respectively, achieving 100% AK lesion clearance at Day 57 within the face or scalp treatment areas. There was a statistically significant greater clearance rate in favor of tirbanibulin ointment 1% versus vehicle in each study and in each of the pre-defined patient subgroups. Safety results showed that tirbanibulin ointment was well tolerated. In October 2019, we announced a progress update for tirbanibulin ointment in the treatment of AK from our partner Almirall, S.A. ("Almirall"), with whom we are collaborating for the development and commercialization of tirbanibulin in the U.S. and Europe.

A study of tirbanibulin ointment 1% in psoriasis once daily for five days in a Phase 1 clinical trial sponsored by our partner, PharmaEssentia Corp. ("PharmaEssentia"), is ongoing.

With respect to KX2-361(formerly known as KX-02), our other Src Kinase inhibition platform product candidate, we announced in September 2019 that our partner, Xiangxue, initiated a Phase 1 study in China of KX2-361 oral treating advanced malignant solid tumors on the strength of encouraging results in preclinical studies.

Other Platforms

The other technologies in our Oncology Innovation Platform are our TCR-T immunotherapy technology under which we are advancing TCR affinity-enhancing specific T-cell (TAEST) therapy with our first drug candidate, TAEST16001, and our arginine deprivation therapy technology under which we are advancing PT01, also known as Pegtomarginase. With respect to these technologies, we announced several developments in 2019.

In March 2019, we announced that our partner, Xiangxue Life Sciences Limited ("XLifeSc"), a wholly-owned subsidiary of Xiangxue, received notice of allowance from the China National Medical Product Administration ("NMPA") of its Investigational New Drug ("IND") application to initiate registration related clinical studies in China of TAEST therapy in patients with solid tumors that are HLA-A*02:01 positive and NY-ESO-1 positive. The cancer immunotherapy product, named TAEST 16001, is an autologous cell-based therapy utilizing the TAEST technology to enhance affinity against the HLA-A*02:01 restricted antigen NY-ESO-1. We are currently preparing the US IND for TAEST 16001.

In June 2019, the FDA allowed our IND application for the clinical investigation of PT01 for the treatment of patients with advanced malignancies. The compound targets cancer growth and survival by removing the supply of arginine to cancers that have a disrupted urea cycle. Also in June 2019 we presented preclinical study results of PT01 in a poster session at the 2019 ASCO Annual Meeting. The biologic agent demonstrated high enzymatic activity, predictable pharmacokinetic-pharmacodynamic profiles, and cytotoxicity in vitro. Mouse xenograft models showed good tumor growth inhibition activity at tolerable doses with only transient weight loss during therapy. We are currently planning a Phase 1 clinical study for PT01.

Recent business updates and *COVID-19 related measures*

In the first quarter of 2020, after monitoring developments related to the spread of COVID-19, we have undertaken a number of measures in response to the COVID-19 pandemic, with a goal to prioritize the health and safety of our employees and ensure continuity in our business. These measures include implementing a work-from-home policy at various times and other efforts in accordance with recommendations by local authorities for certain of our personnel across the globe as well as imposing restrictions on travel and in-person meetings to protect the health and safety of our workforce while we continue to advance our clinical programs

and operations. While our operations in China were disrupted from late January to early March due to the COVID-19 pandemic, during March our Chinese operations returned to normal operation. We have been deemed an "essential business" by New York State and as a result, we have experienced minimal disruptions at our New York-based operations in Clarence and Buffalo. We have supplied our employees with face coverings and other necessary personal protective equipment and have taken other measures to reduce the risk of the spread of COVID-19 at our work sites. Currently, construction at our Dunkirk facility is proceeding according to schedule and our recently constructed API plant in Chongqing also remains on schedule to commence operations during the second half of 2020. We are actively monitoring our operations and supply chain across the globe and are making adjustments to respond to logistical challenges that arise due to COVID-19 where appropriate. Further, we have opened up our production facilities to produce medicines that are used to treat COVID-19 as part of our commitment to contribute to the COVID-19 relief effort.

With respect to our clinical development program, our anticipated timelines for our later-stage product candidates remain largely unaffected by COVID-19. However, for our earlier stage product candidates, in line with the industry overall, we have experienced and expect to continue to experience, slowed enrollment for our clinical trials as well as suspensions in our clinical trials as healthcare resources are diverted to address the COVID-19 pandemic. We remain committed to advancing our pipeline while ensuring the safety of all participants as well as the integrity of the data and will monitor developments with respect to COVID-19 as well as industry and regulatory best practices for continuing clinical development programs during the pandemic, including, if and where appropriate, the use of virtual communications, interviews and visits as well as self-administration and remote monitoring techniques to address health and safety concerns while minimizing disruptions and delays to our clinical development timelines.

We also put in place a number of measures intended to adjust/allocate resources towards prioritizing key business operations such as clinical and regulatory activities for later-stage product candidates and pre-launch commercial activities, and to delay or defray compensation costs in order to preserve our cash on hand and liquidity during a volatile period in the U.S. and global capital markets. In addition to deferring the payment of 2019 bonuses and freezing base pay across the Company, we entered into an arrangement with our chairman and chief executive officer, Dr. Lau on March 24, 2020 whereby Dr. Lau has agreed to receive options to purchase shares of our common stock in lieu of his remaining base salary for fiscal 2020. Under the terms of the arrangement, Dr. Lau reduced his remaining base for fiscal 2020 to $40,000 in cash and, in exchange for his remaining base salary, agreed to receive a stock option to purchase 55,045 shares of common stock pursuant to our 2017 Omnibus Incentive Plan. The stock option vests in one lump sum on December 31, 2020. The grant date fair value of the stock option was equivalent to the value of Dr. Lau's foregone base salary.

On March 31, 2020, we entered into a letter agreement with Xiangxue to amend certain provisions of the 2019 Xiangxue License Agreement. Pursuant to the letter agreement, Xiangxue acknowledges and agrees that Athenex is entitled to payment of the US $30 million upfront payment (the "Upfront Payment") under the 2019 Xiangxue License Agreement. The parties further acknowledge certain difficulties Xiangxue has experienced due to the COVID-19 pandemic in making the Upfront Payment. Therefore, in order to facilitate Xiangxue's payment of the Upfront Payment to Athenex, the parties have agreed to make certain allowances to the payment timeline as well as the payment mechanics. In particular, the parties have agreed that, notwithstanding the provisions of the 2019 Xiangxue License Agreement to the contrary, XPH shall be entitled to make the Upfront Payment in Chinese Renminbi to Chongqing Taihao Pharmaceutical Co. Ltd. ("Taihao"), Athenex's wholly owned subsidiary in China, and that XPH shall remit the gross amount of the Upfront Payment to Taihao with Athenex bearing the responsibility for value added taxes with respect to the same.

Financial Summary and Outlook

We have three operating segments: our Oncology Innovation Platform, Global Supply Chain Platform and Commercial Platform. Since inception, we have devoted a substantial amount of our resources to research and development of our lead product candidates under our Orascovery, Src Kinase Inhibition research platforms, and TCR-T Immunotherapy and Arginine Deprivation Therapy. We have incurred significant net losses since inception.

For the three months ended March 31, 2020, our net loss was $19.7 million, compared to $36.2 million for the same period in 2019. Net loss for the three months ended March 31, 2020 was impacted by foreign tax withholding in relation to license revenue recognized in the period. As of March 31, 2020 and December 31, 2019, we had an accumulated deficit of $586.9 million and $567.5 million, respectively. We expect to incur significant expenses and increasing operating losses for the foreseeable future. We anticipate that our expenses will increase substantially as we:

- Continue to advance our lead programs, Orascovery and Src Kinase Inhibition technology platforms, through clinical development;
- Continue to invest in further developing our Commercial Platform ahead of our intended proprietary drug launch;
- Continue our current preclinical and clinical research program and development activities;
- Continue to invest in our manufacturing facilities;

- Advance the preclinical and clinical research program and development activities of our in-licensed technology platforms, TCR-T Immunotherapy and Arginine Deprivation Therapy;
- Seek to identify additional research programs and product candidates within existing platform technologies;
- Attain new drugs and technologies through acquisitions or in-licensing opportunities;
- Hire additional research, development and business personnel;
- Maintain, expand and protect our intellectual property ("IP") portfolio; and
- Incur additional costs associated with operating as a public company.

We have funded our operations to date primarily from the issuance and sale of our common stock through public offerings, and private placements, and to a lesser extent, from convertible bond financing, a senior secured loan, revenue, and grant funding. Due to the COVID-19 pandemic, access to public and private debt and equity markets may be limited during 2020. As of March 31, 2020, we had cash, cash equivalents of $72.0 million, which included $8.7 million funded by New York State for the construction of the Dunkirk facility, and short-term investments of $41.7 million.

Key Components of Results of Operations

Revenue

We derive our consolidated revenue primarily from (i) the sales of generic injectable products by our Commercial Platform; (ii) the sales of 503B and API products by our Global Supply Chain Platform; (iii) licensing and collaboration projects conducted by our Oncology Innovation Platform, which generates revenue in the form of upfront payments, milestone payments, and payments received for providing research and development services for our collaboration projects and for other third parties; and (iv) grant awards from government agencies and universities for our continuing research and development efforts.

We do not anticipate revenue being generated from sales of our product candidates under development in our Oncology Innovation Platform until we have obtained regulatory approval. We cannot assure you that we will succeed in achieving regulatory approval for our drug candidates as planned, or at all.

Cost of Sales

Along with sourcing from third-party manufacturers, we manufacture clinical products in our cGMP facility in New York. Cost of sales primarily includes the cost of finished products, raw materials, labor costs, manufacturing overhead expenses and reserves for expected scrap, as well as transportation costs. Cost of sales also includes depreciation expense for production equipment, changes to our excess and obsolete inventory reserves, and certain direct costs such as shipping costs, net of costs charged to customers.

Research and Development Expenses

Research and development expenses consist of the costs associated with in-licensing of product candidates, milestone payments, conducting preclinical studies and clinical trials, activities related to regulatory filings and other research and development activities. Our current research and development activities mainly relate to the clinical development of our Oncology Innovation Platform.

We expense research and development costs as incurred. We record costs for certain development activities, such as clinical trials, based on an evaluation of the progress to completion of specific tasks using data such as patient enrollment or clinical site activations. We do not allocate employee-related costs, depreciation, rental and other indirect costs to specific research and development programs because these costs are deployed across multiple product programs under research and development.

We cannot determine with certainty the duration, costs and timing of the current or future preclinical or clinical studies of our drug candidates. The duration, costs, and timing of clinical studies and development of our drug candidates will depend on a variety of factors, including:

- The scope, rate of progress, and costs of our ongoing, as well as any additional, clinical studies and other research and development activities;
- Future clinical study results;
- Uncertainties in clinical study enrollment rates;
- Significant and changing government regulation; and
- The timing and receipt of any regulatory approvals.

A change in the outcome of any of these variables with respect to the development of a drug candidate could mean a significant change in the costs and timing associated with the development of that drug candidate.

Research and development activities are central to our business model. We expect our research and development expenses to continue to increase for the foreseeable future as we continue to support the clinical trials of Oral Paclitaxel, Oral Irinotecan, Oral Docetaxel, Oral Topotecan, Oral Eribulin, tirbanibulin ointment, tirbanibulin oral and KX2-361, as well as initiate and prepare for additional clinical and preclinical studies, including TCR-T and Arginine deprivation program activities. We also expect spending to increase in the research and development for API, 503B and specialty products. There are numerous factors associated with the successful commercialization of any of our drug candidates, including future trial design and various regulatory requirements, many of which cannot be determined with accuracy at this time based on our stage of development. Additionally, future commercial and regulatory factors beyond our control will likely impact our clinical development programs and plans.

Selling, General and Administrative Expenses

Selling, general and administrative, ("SG&A"), expenses primarily consist of compensation, including salary, employee benefits and stock-based compensation expenses for sales and marketing personnel, and for administrative personnel that support our general operations such as executive management, legal counsel, financial accounting, information technology, and human resources personnel. SG&A expenses also include professional fees for legal, patent, consulting, auditing and tax services, as well as other direct and allocated expenses for rent and maintenance of facilities, development of the facility in Dunkirk, NY, insurance and other supplies used in the selling, marketing, general and administrative activities. SG&A expenses also include costs associated with our commercialization efforts for our proprietary drugs, such as market research, brand strategy and development work on market access, scientific publication, product distribution and patient support.

Results of Operations

Three Months Ended March 31, 2020 Compared to Three Months Ended March 31, 2019

The following table sets forth a summary of our condensed consolidated results of operations for the three months ended March 31, 2020 and 2019, together with the changes in those items in dollars and as a percentage. This information should be read together with our condensed consolidated financial statements and related notes included elsewhere in this Quarterly Report on Form 10-Q. Our operating results in any period are not necessarily indicative of the results that may be expected for any future period.

	Three Months Ended March 31,			
	2020	2019	Change	
	(in thousands)	(in thousands)	(in thousands)	%
Revenue				
Product sales, net	$ 18,547	$ 25,163	$ (6,616)	-26%
License fees and other revenue	28,388	144	28,244	NM
Total revenue	46,935	25,307	21,628	
Cost of sales	(19,572)	(19,902)	330	-2%
Research and development expenses	(17,192)	(24,475)	7,283	-30%
Selling, general, and administrative expenses	(25,748)	(15,188)	(10,560)	70%
Interest income	413	283	130	46%
Interest expense	(1,673)	(1,755)	82	-5%
Income tax expense	(2,881)	(500)	(2,381)	NM
Net loss	(19,718)	(36,230)	16,512	
Less: net loss attributable to non-controlling interests	(289)	(997)	708	-71%
Net loss attributable to Athenex, Inc.	$ (19,429)	$ (35,233)	$ 15,804	

Revenue

Revenue from product sales decreased to $18.5 million for the three months ended March 31, 2020, from $25.2 million for the three months ended March 31, 2019, a decrease of $6.6 million or 26%. This decrease was primarily attributable to a decrease in API and 503B products sales of $3.8 million, and $3.4 million, respectively, due to the suspension of production of commercial batches at our API facilities and the discontinued vasopressin sales. These decreases were partially offset by an increase in specialty product revenue of $0.9 million with the launch and sales of two new products. We recognized $28.3 million in license revenue, net of $1.7 million VAT, for the three months ended March 31, 2020, pursuant to the license agreement entered into with Xiangxue in December 2019.

Cost of Sales

Cost of sales for the three months ended March 31, 2020 totaled $19.6 million, a decrease of $0.3 million, or 2%, as compared to $19.9 million for the three months ended March 31, 2019. We continued to incur fixed costs despite decreased production at our API and APS plants. Changes in the availability of products and market demand could increase or decrease our revenue and gross profit in the future.

Research and Development Expenses

Research and development ("R&D") expenses for the three months ended March 31, 2020 totaled $17.2 million, a decrease of $7.3 million, or 30%, as compared to $24.5 million for the three months ended March 31, 2019. This was primarily due to a decrease in licensing fees, preclinical operations, and clinical operations and included the following:

- $5.7 million decrease in drug licensing costs related to specialty product in-license expenses and an upfront license payment due to XLifeSc related to TCR-T technology incurred during the prior year;
- $1.7 million decrease of clinical studies costs related to the supply of encequidar and tirbanibulin ointment for clinical studies. In addition, patient costs on the two Phase 3 tirbanibulin studies continued to decrease as both Phase 3 studies wound down; and
- $1.3 million decrease of preclinical operations related to fewer up-front expenses for Arginine Deprivation Therapy, and a decrease in API research and development costs.

The decrease in these R&D expenses was offset by an increase of $1.3 million in compensation expense and regulatory costs in connection with our NDA preparations.

Selling, General, and Administrative Expenses

SG&A expenses for the three months ended March 31, 2020 totaled $25.7 million, an increase of $10.5 million, or 70%, as compared to $15.2 million for the three months ended March 31, 2019. This was primarily due to an increase of $7.6 million related to the costs of preparing to commercialize our proprietary drugs, if approved, and an increase of $2.9 million of general administrative expense, including professional service fees and other operating expenses.

Interest Income and Interest Expense

Interest income consisted of interest earned on our short-term investments and remained consistent for the three months ended March 31, 2020 and 2019. Interest expense totaled $1.7 million for both the three months ended March 31, 2020 and 2019. The interest expense in the both periods was incurred from our long-term debt with Perceptive entered into during the third quarter of 2018.

Income Tax Expense

For the three months ended March 31, 2020, we incurred income tax expense of $2.9 million, compared to $0.5 million for the same period in 2019. The increase in income tax expenses was primarily attributable to foreign tax withholding in relation to license revenue recognized in the three months ended March 31, 2020.

Liquidity and Capital Resources

Capital Resources

Since our inception, we have incurred net losses and negative cash flows from our operations. Substantially all of our losses have resulted from funding our R&D programs, SG&A costs associated with our operations, and the development of our specialty drug operations in our Commercial Platform and 503B operations and the investment we are making in our pre-launch activities in anticipation of commercializing our proprietary drugs. We incurred net losses of $19.7 million and $36.2 million for the three months ended March 31, 2020 and 2019, respectively. As of March 31, 2020, we had an accumulated deficit of $586.9 million. Our operating activities used $45.5 million and $33.0 million of cash during the three months ended March 31, 2020 and 2019, respectively. We intend to continue to advance our various clinical and pre-clinical programs which we expect will lead to increased cash outflow of R&D costs and increase our investments in commercialization activities for our proprietary drugs. In addition, we can provide no assurance that the funding requirements to diversify the product portfolio for specialty drug products in the Commercial Platform and 503B operations will decline in the future. As of March 31, 2020 we had cash and cash equivalents of $72.0 million, which included $8.7 million funded by New York State for the construction of the Dunkirk facility, and short-term investments of $41.7 million.

On May 7, 2019, we completed a private placement equity offering of 10 million shares of our common stock. All shares were offered by us at a price of $10.00 per share to three institutional investors, namely Perceptive, Avoro Capital Advisors (formerly known as venBio Select Advisor), and OrbiMed. The aggregate net proceeds received by us from the offering were $99.9 million, net of offering expenses of approximately $0.1 million.

On December 9, 2019, we completed a private placement with a group of institutional investors, led by Kingdon Capital Management, LLC, pursuant to which we sold an aggregate of 3,945,750 shares of its common stock at a purchase price of $15.30 per share for aggregate net proceeds of $59.4 million, net of offering expenses of approximately $1.0 million.

We expect that our cash and cash equivalents, and short-term investments as of March 31, 2020, together with cash to be generated from our operating activities, will enable us to fund our operations into the first quarter of 2021, but will not be sufficient to fund current operating plans through one year after the date that these condensed consolidated financial statements are issued. We expect that our expenses will increase as we continue to fund clinical and preclinical development of our research programs, pre-launch activities of our proprietary drugs, funding of our Commercial Platform and manufacturing facilities, and working capital and other general corporate purposes. We have based our estimates on assumptions that might prove to be wrong, and we might use our available capital resources sooner than we currently expect. Because of the numerous risks and uncertainties associated with the development and commercialization of our drug candidates, we are unable to accurately estimate the amounts of increased capital outlays and operating expenditures necessary to complete the development and commercialization of our drug candidates.

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

- Our ability to generate revenue and profits from our Commercial Platform or otherwise;
- The costs, timing and outcome of regulatory reviews and approvals;
- Progress of our drug candidates to progress through clinical development successfully;
- The initiation, progress, timing, costs and results of nonclinical studies and clinical trials for our other programs and potential drug candidates;
- The costs of preparing our Commercial Platform for the commercialization of our proprietary drugs;
- The costs of construction and fit-out of planned drug at both Dunkirk and API manufacturing facilities;
- The number and characteristics of the drug candidates we pursue;
- The costs of preparing, filing and prosecuting patent applications, maintaining and enforcing our IP rights and defending IP related claims;
- The extent to which we acquire or in-license other products and technologies; and
- Our ability to maintain and establish collaboration arrangements on favorable terms, if at all.

We believe that the existing cash and cash equivalents, and short-term investments will not be sufficient to enable us to complete all necessary development or commercially launch our proprietary drug candidates. Until such time, if ever, as we can generate substantial product revenue, we expect to finance our cash needs through a combination of equity offerings, debt financings, collaborations, strategic alliances, licensing arrangements, and government grants. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the ownership interest of our existing stockholders will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect rights of holders of common stock. Debt financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends and might require the issuance of warrants, which could potentially dilute the ownership interest of holders of common stock. If we raise additional funds through collaborations, strategic alliances or licensing arrangements with third parties, we might have to relinquish valuable rights to our technologies, future revenue streams or research programs or to grant licenses on terms that might not be favorable to us. The COVID-19 pandemic has reduced the valuation of many publicly traded stocks, including our own, and has disrupted capital markets in the U.S. and globally. Until global economies recover, we may not be able to raise additional funds through equity or debt financings. If we are unable to raise additional funds through equity or debt financings when needed, we might be required to delay, limit, reduce, or terminate our product development or future commercialization efforts or grant rights to develop and market products or drug candidates that we would otherwise prefer to develop and market ourselves.

Cash Flows

The following table provides information regarding our cash flows for the three months ended March 31, 2020 and 2019:

	Three Months Ended March 31,	
	2020	2019
	(in thousands)	
Net cash used in operating activities	$ (45,545)	$ (32,971)
Net cash (used in) provided by investing activities	(10,451)	52,198
Net cash provided by financing activities	732	976
Net effect of foreign exchange rate changes	(427)	1,006
Net (decrease) increase in cash and cash equivalents	$ (55,691)	$ 21,209

Net Cash Used in Operating Activities

The use of cash in our operating activities resulted primarily from our net loss adjusted for non-cash charges and changes in components of working capital. The primary use of our cash in the periods presented was to fund our research and development, regulatory and other clinical trial costs, drug licensing costs, inventory purchases, pre-launch commercialization activities, and other expenditures related to sales, marketing and administration.

Net cash used in operating activities was $45.5 million for the three months ended March 31, 2020. This resulted primarily from our net loss of $19.7 million, adjusted for non-cash charges of $3.8 million, and by cash used by our operating assets and liabilities of $29.7 million, the majority of which was due to the licensing fee receivable. Our operating assets increased $34.7 million for accounts receivable mainly related to the contract asset recognized from license revenue in the current period as well as increases sales of specialty products, $3.1 million for inventory of all drug products, and offset by a $3.7 million decrease in prepaids and other assets. Our operating liabilities increased by $4.4 million mainly due to an increase related the construction of our Dunkirk facility. Our net non-cash charges during the three months ended March 31, 2020 primarily consisted of $2.3 million of stock-based compensation expense and $1.1 million depreciation and amortization expense.

Net cash used in operating activities was $33.0 million for the three months ended March 31, 2019. This resulted primarily from our net loss of $36.2 million, adjusted for non-cash charges of $3.4 million, and by cash used by our operating assets and liabilities of $0.2 million. Our operating assets increased $7.6 million for accounts receivable mainly related to the increase sales of our specialty products, API and 503B products during the three months ended March 31, 2019, and $11.9 million for prepaid and accrued expenses related to Dunkirk construction. Inventory decreased by $3.6 million primarily related to the sale of specialty drugs. Our operating liabilities increased by $16.4 million mainly due to an increase in accrued license fees and accrued inventory purchases. Our net non-cash charges during the three months ended March 31, 2019 primarily consisted of $1.8 million of stock-based compensation expense, $0.9 million depreciation and amortization expense and $0.5 million of deferred income tax expense.

Net Cash (Used in) Provided by Investing Activities

Net cash used in investing activities was $10.5 million for the three months ended March 31, 2020, compared to $52.2 million net cash provided in the three months ended March 31, 2019. The difference was primarily due to more cash being used in 2020 to purchase short-term investments, including commercial paper, corporate notes, and U.S. government bonds, while more cash was obtained by the maturities of short-term investments in 2019.

Net Cash Provided by Financing Activities

Net cash provided by financing activities was $0.7 million for the three months ended March 31, 2020, which primarily consisted of $0.4 million from the issuance of debt to fund our new API plant in China and $0.3 million from the exercise of stock options.

Contractual Obligations

A summary of our contractual obligations as of March 31, 2020 is as follows:

	Payments Due by Period				
	Within 1 Year	1 to 3 years	3 to 5 years	More than 5 years	Total Amounts Committed
	(in thousands)				
Operating leases	$ 2,985	$ 5,276	$ 4,070	$ 1,449	$ 13,780
Long-term debt	674	1,817	54,239	—	56,730
Finance lease obligations	214	182	—	—	396
Licensing fees	384	—	—	—	384
	$ 4,257	$ 7,275	$ 58,309	$ 1,449	$ 71,290

The above table includes the Company's operating leases and the amounts committed under those leases by each location: (1) the rental of our global headquarters in the Conventus Center for Collaborative Medicine in Buffalo, NY; (2) the rental of our research and development facility in the IC Development Centre in Hong Kong; (3) the rental of the Commercial Platform headquarters in Chicago, IL; (4) the rental of our clinical research headquarters in Cranford, NJ; (5) the rental of our clinical data management center in Taipei, Taiwan; (6) the rental of 8 facilities of our contract research organization throughout Latin America; (7) the rental of our Global Supply Chain distribution office in Houston, TX; (8) the rental of our Global Supply Chain API manufacturing facility in Chongqing, China; and (9) the rental of other facilities and equipment located mainly in Buffalo, NY.

Off-Balance Sheet Arrangements

We do not maintain any off-balance sheet partnerships, arrangements, or other relationships with unconsolidated entities or others, often referred to as structured finance or special purpose entities, which are established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes.

Critical Accounting Policies and Significant Judgments and Estimates

Our condensed consolidated financial statements are prepared in accordance with U.S. generally accepted accounting principles ("GAAP"). The preparation of these condensed consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue, costs and expenses, and related disclosures. These estimates form the basis for judgments we make about the carrying values of our assets and liabilities, which are not readily apparent from other sources. We base our estimates and judgments on historical experience and on various other assumptions that we believe are reasonable under the circumstances. On an ongoing basis, we evaluate our estimates and assumptions. Our actual results may differ from these estimates under different assumptions or conditions.

We believe that the assumptions and estimates associated with research and development expenses, chargebacks, stock-based compensation and inventory reserves have the most significant impact on our condensed consolidated financial statements. Therefore, we consider these to be our critical accounting policies and estimates.

There have been no significant changes in our critical accounting policies and estimates as compared to the critical accounting policies and estimates disclosed in Management's Discussion and Analysis of Financial Condition and Operations included in our Annual Report on Form 10-K for the year ended December 31, 2019.

Recent Accounting Pronouncements

In the normal course of business, we evaluate all new accounting pronouncements issued by the Financial Accounting Standards Board, the SEC, or other authoritative accounting bodies to determine the potential impact they may have on our condensed consolidated financial statements. See Note 2 of the Notes to Condensed Consolidated Financial Statements contained in Item 1 of this quarterly report on Form 10-Q for additional information about these recently issued accounting standards and their potential impact on our financial condition or results of operations.

Item 3. Quantitative and Qualitative Disclosures about Market Risk.

Foreign Currency Exchange Risk

A significant portion of our business is located outside the United States and, as a result, we generate revenue and incur expenses denominated in currencies other than the U.S. dollar, a majority of which is denominated in Chinese Renminbi ("RMB"). In the three months ended March 31, 2020 and 2019, approximately 0% and 1%, respectively, of our sales, excluding intercompany sales, were denominated in foreign currencies. As a result, our revenue can be significantly impacted by fluctuations in foreign currency exchange rates. We expect that foreign currencies will represent a lower percentage of our sales in the future due to the anticipated growth of our U.S. business. Our international selling, marketing, and administrative costs related to these sales are largely denominated in the same foreign currencies, which somewhat mitigates our foreign currency exchange risk rate exposure.

Currency Convertibility Risk

A portion of our revenues and expenses, and a portion of our assets and liabilities are denominated in RMB. The PRC government uses a single rate of exchange as quoted daily by the People's Bank of China, ("PBOC"). The PRC imposes a number of procedural requirements that limit the ability to readily convert RMB into U.S. dollars or other foreign currencies. All foreign exchange transactions continue to take place either through the PBOC or other banks authorized to buy and sell foreign currencies at the exchange rates quoted by the PBOC. Approvals of foreign currency payments by the PBOC or other institutions require submitting a payment application form together with suppliers' invoices, shipping documents and signed contracts.

Additionally, the value of the RMB is subject to changes in PRC central government policies and international economic and political developments affecting supply and demand in the PRC foreign exchange trading system market.

Interest Rate Sensitivity

We had cash, cash equivalents, and short-term investments of $113.7 million as of March 31, 2020. Our primary exposure to market risk is interest income sensitivity, which is affected by changes in the general level of U.S. interest rates. However, because of the short-term nature of the instruments in our portfolio, a sudden change in U.S. market interest rates is not expected to have a material impact on our condensed consolidated financial condition or results of operations. We do not believe that our cash or cash equivalents have significant risk of default or illiquidity.

We have 5-year $50.0 million loan agreement with Perceptive, which closed on July 3, 2018, bearing interest at a floating per annum rate equal to 1-Month LIBOR (with a floor of 2%) plus 9%. If 1-Month LIBOR increased by 1%, we would be required to pay Perceptive an additional $0.5 million in interest annually. If 1-Month LIBOR decreased by 1%, we would be required to pay Perceptive $0.5 million less in interest annually. Thus, a change in the short-term interest rate environment (especially a material change) could have a material adverse effect on our business, financial condition, cash flows and results of operations and could cause the market value of our common shares to decline. In the event LIBOR can no longer be determined, the parties shall mutually establish an alternative rate of interest and until such time that rate is agreed, the reference rate for purposes of the loan shall be the Wall Street Journal Prime Rate. As of March 31, 2020, we did not have any outstanding interest rate swap contracts.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Board Chairman (Principal Executive Officer) and our Chief Financial Officer (Principal Financial and Accounting Officer), evaluated the effectiveness of our disclosure controls and procedures as of March 31, 2020. The term "disclosure controls and procedures," as defined in Rule 13a-15(e) and 15d-15(e) under the Exchange Act means controls and other procedures of a company that are designed to ensure that information required to be disclosed by the 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 SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company's management, including its principal executive and principal financial officers, 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 objectives, and management necessarily applies 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 March 31, 2020, our Chief Executive Officer and Board Chairman (Principal Executive Officer) and our Chief Financial Officer (Principal Financial and Accounting Officer) concluded that, as of such date, our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting identified in connection with the evaluation required by Rule 13a-15(d) and 15d-15(d) of the Exchange Act that occurred during the quarter ended March 31, 2020 that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. We have not experienced any material impact to our internal controls over financial reporting despite the fact that most of our employees are working remotely due to the COVID-19 pandemic. We are continually monitoring and assessing the COVID-19 situation on our internal controls to minimize the impact on their design and operating effectiveness.

PART II—OTHER INFORMATION

Item 1. Legal Proceedings.

From time to time we may become involved in legal proceedings or be subject to claims arising in the ordinary course of our business. Regardless of the outcome, litigation can have an adverse impact on us because of prosecution, defense and settlement costs, unfavorable awards, diversion of management resources and other factors.

Item 1A. Risk Factors.

For a discussion of the Company's potential risks or uncertainties, please see "Part I—Item 1A—Risk Factors" and "Part II—Item 7—Management's Discussion and Analysis of Financial Condition and Results of Operations" in the Company's Annual Report on Form 10-K for the year ended December 31, 2019 filed with the SEC, and "Part I—Item 2—Management's Discussion and Analysis of Financial Condition and Results of Operations" herein. Other than as described below, there have been no material changes to the risk factors disclosed in Part I—Item 1A of the Company's Annual Report on Form 10-K for the year ended December 31, 2019.

The COVID-19 pandemic could adversely impact our business, including our commercial operations, clinical development activities and clinical trials.

As a result of the COVID-19 pandemic, we have experienced difficulties in clinical trial recruitment in the first quarter of 2020, suspensions of early stage trials and disruptions in production at our Chongqing API production facility. The future impact of the COVID-19 pandemic on our business and operations is largely unknown and the situation is fluid. The extent to which our business and operations may be impacted by the pandemic will depend on a number of factors, including (i) the ultimate spread and severity of the outbreaks in the U.S. and globally, (ii) the existence of additional waves of outbreak as containment measures are lifted, (iii) the scope, duration and impact of containment measures on individuals and businesses, and (iv) the timing to market and relative availability of testing and treatment options for COVID-19. If the pandemic worsens or we experience additional waves of outbreak on a local, national or global scale, we may experience a multitude of additional disruptions that could severely impact our business, operations, clinical development activities and planned clinical trials, including without limitation, the following:

- a spread of COVID-19 among our workforce and/or management team, which would result in our reduced capacity to manage our business to the extent key personnel are impacted or our personnel are impacted in significant numbers;
- delays or difficulties in clinical trials, which could include continued suspensions of early stage trials, difficulties enrolling patients in clinical trials and/or disruptions to ongoing trials based on the attrition of patients as a result of contracting or being exposed to COVID-19, facility closures or limitations on the use of hospitals as clinical trial sites and governmental restrictions on "non-essential" procedures and activities, any of which may further delay our clinical development plans and timelines and also may impact the integrity of our clinical trial data for ongoing trials;
- temporary or long-term disruptions in our supply chains and resulting delays in the delivery of products, services or other materials necessary for our operations;
- interruptions in FDA operations or the operations of comparable foreign regulatory agencies, which may in turn impact our timelines for receiving regulatory approvals and feedback;
- complete or partial shutdowns of the construction efforts at our Dunkirk or PRC facilities or additional production slowdowns or stoppages at our Chongqing facility;
- disruptions due to the increased cybersecurity vulnerabilities caused by remote work and a distributed workforce, including data breaches and data loss;
- interruption or delays in our and our partners ability to meet expected clinical development deadlines or to comply with contractual commitments with respect to the same, including timelines around preclinical studies and planned clinical trials which could in turn delay overall developmental and commercialization timelines; and
- limitations on our ability to engage in marketing and public relations due to restrictions on travel as well as the widespread cancellation of conferences and events targeting the biotech and medical fields.

Each of these disruptions as well as others arising from the COVID-19 pandemic could adversely impact our ability to conduct clinical development activities, planned clinical trials and our business generally, and could have a material adverse impact on our operations and financial condition and results.

The COVID-19 pandemic has caused and could continue to cause severe losses, disruption and volatility in the capital markets, which could increase our future cost of capital and have an adverse effect on our ability to raise additional capital.

The COVID-19 pandemic has had a profound effect on general economic activity and conditions in the first quarter of 2020 and has resulted in significant market losses, extreme market volatility. This has in turn negatively impacted the trading price for our common stock. Protracted restrictions on individuals and businesses intended to quell the spread of COVID-19 and/or significant changes in consumer behavior as a result of the pandemic could further trigger a period of sustained U.S. and/or global economic instability, recession or depression. As a result of which, we may face difficulties accessing capital through the capital markets or otherwise on favorable terms or at all. If we are unable to obtain additional funding on a timely basis or on acceptable terms, we may have to delay, limit, reduce or terminate our research and development programs, preclinical studies or clinical trials, limit our marketing and commercialization activities or undergo reductions in our workforce or other corporate restructuring activities. We also could be required to seek funds through partnerships or alternative financing arrangements that may require us to relinquish valuable rights to our technologies, future revenue streams, and/or product candidates or otherwise grant rights to develop and market product candidates or products that we would otherwise prefer to retain.

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

None.

Item 3. Defaults Upon Senior Securities.

Not applicable.

Item 4. Mine Safety Disclosures.

Not applicable

Item 5. Other Information.

None.

Item 6. Exhibits.

The exhibits filed or furnished as part of this Quarterly Report on Form 10-Q are set forth below.

Exhibit Number	Exhibit Title	Incorporated by Reference (Unless Otherwise Indicated)			
		Form	File	Exhibit	Filing Date
10.11^	License Agreement by and between Kinex Pharmaceuticals, Inc. and PharmaEssentia Corp., effective as of December 16, 2013.	—	—	—	Filed herewith
10.11.2^	Second Amendment to License Agreement by and between Athenex, Inc. and PharmaEssentia Corp., effective as of November 27, 2018.	—	—	—	Filed herewith
10.13^	License Agreement by and between Kinex Pharmaceuticals, LLC and Guangzhou Xiangxue New Drug Discovery and Development Company Limited, effective as of May 6, 2012.	—	—	—	Filed herewith
31.1	Certification of the Chief Executive Officer and Board Chairman (Principal Executive Officer) pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	—	—	—	Filed herewith
31.2	Certification of the Chief Financial Officer (Principal Financial and Accounting Officer) pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	—	—	—	Filed herewith
32.1	Certification of the Chief Executive Officer and Board Chairman (Principal Executive Officer) and the Chief Financial Officer (Principal Financial and Accounting Officer) pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.	—	—	—	Filed herewith
101.INS	XBRL Instance Document.	—	—	—	Filed herewith
101.SCH	XBRL Taxonomy Extension Schema Document.	—	—	—	Filed herewith
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.	—	—	—	Filed herewith
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.	—	—	—	Filed herewith
101.LAB	XBRL Taxonomy Extension Label Linkbase Document.	—	—	—	Filed herewith
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.	—	—	—	Filed herewith

^ An extension of confidential treatment has been requested for certain confidential portions of this exhibit pursuant to Rule 406 under the Securities Act. In accordance with Rule 406, these confidential portions have been omitted from this exhibit and filed separately with the Securities and Exchange Commission.

SIGNATURES

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

Athenex, Inc.

Date: May 7, 2020

By: /s/ Johnson Y.N. Lau
Chief Executive Officer and Board Chairman
(Principal Executive Officer)

Date: May 7, 2020

By: /s/ Randoll Sze
Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 10.11.2

Portions of this exhibit marked [*] are requested to be treated confidentially.

SECOND AMENDMENT TO LICENSE AGREEMENT

This SECOND AMENDMENT TO LICENSE AGREEMENT (this "Second Amendment") is made and entered into as of this 27th day of November, 2018 ("Effective Date") by and between Athenex, Inc., formerly known as Kinex Pharmaceuticals, Inc., a corporation organized and existing under the laws of the state of Delaware, USA, with a principal place of business at 1001 Main Street, Suite 600, Buffalo, New York 14203 ("Athenex" or "Kinex"), and PharmaEssentia Corp., a publicly traded company organized and existing under the laws of Taiwan with a principal place of business at 13F., No. 3 YuanQu Street, Nankang District,Taipei115, Taiwan ("PharmaEssentia").

WITNESSETH:

WHEREAS, Athenex and PharmaEssentia entered into a License Agreement on December 16, 2013 for the license by Athenex to PharmaEssentia of rights in Oraxol and Oratecan, which agreement was subsequently amended by a First Amendment to License Agreement on December 23, 2016 (collectively, the "License");

WHEREAS, Athenex and PharmaEssentia wish to amend the terms of the License to add the rights to Athenex's Oradoxel and to make other amendments;

NOW, THEREFORE,

1. All capitalized terms used in this Second Amendment and not defined herein shall have the meaning given to them in the License. Except as amended by this Second Amendment, the License shall continue in full force and effect.

2. Section 1.42 of the License is amended and restated in its entirety as follows:

   "1.42 'Licensed Product(s)' means Oraxol, Oratecan and Oradoxel for use in the Territory."

3. A new Section 1.46.5 shall be added immediately after Section 1.46, as follows:

   "1.46.5 'Oradoxel' means any oral dosage, chemotherapy drug that contains the Compound and Docetaxel as active pharmaceutical ingredients."

4. Section 3.2(a) of the License is amended and restated in its entirety as follows:

   "3.2(a) General. PharmaEssentia shall be responsible for and shall itself, or through its Affiliates or Third Parties, conduct Development and Commercialization in the Territory in the Field during the term of this Agreement. Within 60 days after the Effective Date, PharmaEssentia shall prepare a draft plan and budget (in English) for Development and Commercialization in each of the countries within the Territory and submit such draft plan to the Steering Committee (as defined in Section 3.4) which will agree on and oversee the plan for Development and Commercialization (the "**Development Plan**") during the term of this Agreement. If PharmaEssentia fails to (i) file an IND with the Taiwan Regulatory Authority within six months after Kinex provides it with the IND that Kinex has filed with the United States Regulatory Authority, (ii) assuming that a 505b2 strategy is allowed by Taiwan FDA, enrollment of at least forty (40) patients for the Oraxol program within eighteen (18) months after IND is allowed by the Taiwan FDA, (iii) assuming that a 505b2 strategy is allowed, enrollment of at least forty (40) patients for the Oratecan program within 18 months after the IND for Oratecan is allowed

by the Taiwan FDA, (iv) file an IND application to Drug Administration Of Vietnam for the Oraxol program by December 31, 2019, and (v) file an application for a Free Sale Certificate within three (3) months after the approval of an NDA for each Licensed Product, all rights and licenses under this Agreement shall immediately terminate, provided, however, Kinex shall grant a six month extension on any of the foregoing timelines at the reasonable written request of PharmaEssentia prior to any termination of this Agreement.

5. Section 3.2(c)(i) and (ii) of the License is amended and restated in its entirety as follows:

"(i) conduct all Clinical Studies in the Territory for Oraxol, Oratecan and Oradoxel in support of the clinical strategy under the Development Plan; and

(ii) participate in the Phase III Studies for Oraxol, Oratecan and Oradoxel in such a manner in conjunction with Kinex which will support PharmaEssentia's application for a Regulatory Approval of Licensed Product in each of the countries within the Territory."

6. Section 3.2(k) of the License is amended and restated in its entirety as follows:

"(k) Supply of Licensed Product. Kinex shall supply PharmaEssentia free of charge, in accordance with regulatory requirements and as requested in writing by PharmaEssentia, the Licensed Products that are sufficient for the Clinical Studies (up to 80 patients) in the Territory, except for Oradoxel. For Oradoxel, Kinex shall supply PharmaEssentia, in accordance with regulatory requirements and as requested in writing by PharmaEssentia, Oradoxel sufficient for Clinical Trials in the Territory and PharmaEssentia shall be responsible to Kinex for the reasonable cost and expense of such supply."

7. Section 4.1(a) – (e) of the License is amended and restated in its entirety as follows:

(a)	Effective Date	US$50,000
(b)	Initiation anywhere in the Territory of 505b2 strategy registration studies or one Phase III Clinical Study for the regular NDA approval process for any Licensed Product	US$0.5M
(c)	Initiation of first Clinical Study of Oradoxel in any country in the Territory	US$[*]
(d)	Initiation of a Phase III Clinical Study of Oradoxel in any country in the Territory US$[*]	US$[*]
(e)	Filing of an NDA for the Regulatory Approval for Oradoxel in any country in the Territory	US$[*]
(f)	Filing of an NDA for the Regulatory Approval for Oradoxel in any country in the Territory	US$[*]
(g)	Filing of an NDA for the Regulatory Approval for Oratecan in any country in the Territory	US$[*]
(h)	Regulatory Approval of Oradoxel in Taiwan	US$[*]
(i)	Regulatory Approval of Oradoxel in Singapore	US$[*]
(j)	Regulatory Approval of any Licensed Products in the Territory	US$[*]

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC

8. In consideration for this Second Amendment, Pharma Essentia shall pay to Athenex US$2.0M on or before December 15, 2018.

IN WITNESS WHEREOF, Athenex and PharmaEssentia have executed this First Amendment as of the date first set forth above.

ATHENEX, INC.	PHARMAESSENTIA CORP
/s/ Johnson Lau	/s/ Chingleou Teng
By: Johnson Lau	By: Chingleou Teng
Date: Chief Executive Officer	Date: Chairperson

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

Exhibit 10.11

Execution Copy

FOIA CONFIDENTIAL TREATMENT REQUESTED
Confidential Materials omitted and filed separate with the Securities and Exchange Commission
Triple asterisks denote omissions

LICENSE AGREEMENT

by and between

KINEX PHARMACEUTICALS, INC.

and

PHARMAESSENTIA CORP

December 16, 2013

***** = Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

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***** = Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

THIS LICENSE AGREEMENT (this " **Agreement** ") is made as of December 16, 2013 (" **Effective Date** "), by and between:

(1) **KINEX PHARMACEUTICALS, INC.** , a corporation incorporated and existing under the laws of the State of Delaware and having its principal office at 701 Ellicott Street, Buffalo, New York 14203, USA (" **Kinex** "); and

(2) **PHARMAESSENTIA CORP** , a corporation incorporated and existing under the laws of the Taiwan and having its principal office at 13F, No. 3 YuanQu Street, Nankang District, Taipei 115, Taiwan (" **PharmaEssentia** ").

(Kinex and PharmaEssentia are hereinafter collectively referred to as " **Parties** " and individually " **Party** ".)

WITNESETH

WHEREAS , Kinex owns or Controls the Kinex Intellectual Property necessary for the manufacture and sale of Oraxol and Oratecan (as such capitalized terms are hereinafter defined) in the Territory, including an exclusive license granted by Hanmi Pharmaceutical Co. Ltd. to Kinex for Kinex's use, and sublicense to any Third Party for use, of the Intellectual Property to Develop and Commercialize the Compound and the Licensed Products (defined below) in all major markets worldwide except for Korea, Japan and India in Asia;

WHEREAS , PharmaEssentia and its Affiliates have experience in the development, marketing, promotion and sale of pharmaceutical products predominately in Asia; and PharmaEssentia desires to obtain the exclusive right and license in the Territory to further develop and thereafter commercialize a Licensed Products for indications in the Field (as such capitalized terms are hereinafter defined); and Kinex desires to grant to PharmaEssentia such exclusive right and license in the Territory, all on the terms and conditions set forth below.

NOW, THEREFORE , in consideration of the mutual representations, warranties and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

Unless specifically set forth to the contrary herein, the following terms, whether used in the singular or plural, shall have the respective meanings set forth below:

1.1 " Act " means the United States Food, Drug, and Cosmetic Act of 1938, as amended, and the rules and regulations promulgated thereunder, or any successor act, as the same shall be in effect from time to time.

1.2 " Affiliate " means with respect to a Party (a) any corporation or business entity of which more than fifty percent (50%) of the securities or other ownership interests representing the equity, the voting stock or general partnership interest are owned, controlled or held, directly or indirectly, by a Party; (b) any corporation or business entity which, directly or indirectly, owns, controls or holds more than fifty percent (50%) (or the maximum ownership interest permitted by law) of the securities or other ownership interests representing the equity, voting stock or general partnership interest of a Party; (c) any corporation or business entity of which, directly or indirectly, an entity described in the immediately preceding subsection (b) controls or holds more than fifty percent (50%) (or the maximum ownership interest permitted by law) of the securities or other ownership interests representing the equity, voting stock or general partnership interest of such corporation or entity; or (d) any corporation or business entity of which a Party has the right to acquire, directly or indirectly, more than fifty percent (50%) of the securities or other ownership interests representing the equity, voting stock or general partnership interest thereof.

1.3 " Agreement Term " has the meaning set forth in Section 8.1(a).

1.4 " Breaching Party " has the meaning set forth in Section 8.2(b).

1.5 " Business Day " means any calendar day, except that if an activity to be performed or an event to occur falls on a Saturday, Sunday or a day which is recognized as a national holiday in the place of performance of an applicable activity or occurrence of an applicable event, then the activity may be performed or the event may occur on the next day that is not a Saturday, Sunday or nationally recognized holiday.

1.6 " Calendar Quarter " means for each Calendar Year, each of the three (3) month periods ending on March 31, June 30, September 30 and December 31; provided , however , that (i) the first Calendar Quarter of any period specified under this Agreement shall extend from the commencement of such period to the end of the first complete Calendar Quarter thereafter; and (ii) the last Calendar Quarter shall end upon the expiration or termination of this Agreement.

1.7 " Calendar Year " means, for the first Calendar Year, the period commencing on the Effective Date and ending on December 31, 2014, and for each year thereafter, each successive period beginning on January 1 and ending twelve (12) consecutive calendar months later on December 31.

1.8 " CFR " means the United States Code of Federal Regulations.

1.9 "cGMP" means current good manufacturing practices.

1.10 " Claims " has the meaning set forth in Section 9.2.

1.11 " Clinical Studies " means any clinical studies of a Licensed Product conducted on humans.

1.12 " Commercialize " or " Commercialization " means promotion, marketing, sale, supply, manufacture, import, export and distribution of Licensed Products, including any educational or pre-launch activities.

1.13 " Commercially Reasonable Efforts " means exerting such efforts and employing such resources as would normally be exerted or employed by a Party for its other drug candidates and pharmaceutical products of a comparable stage of development and commercial potential;. and for this Agreement, with respect to Regulatory Approval and First Commercial Sale of Licensed Product, means (i) the filing of an IND with the Taiwan Regulatory Authority within six months after Kinex provides PharmaEssentia with the IND that Kinex has filed with the United States Regulatory Authority, (ii) assuming that a 505b2 strategy is allowed by Taiwan FDA, enrollment of at least forty (40) patients for the Oraxol program within eighteen (18) months after IND is allowed by the Taiwan FDA, (iii) assuming that a 505b2 strategy is allowed, enrollment of at least forty (40) patients for the Oratecan program within 18 months after the IND for Oratecan is allowed by the Taiwan FDA, and (iv) the filing of an application for a Free Sale Certificate within three (3) months after the approval of an NDA for each Licensed Product; provided, however, Kinex shall grant a six month extension on each of the foregoing timelines at the reasonable written request of PharmaEssentia.

1.14 " Completion " means, with respect to any Clinical Study, the completion of treatment for the necessary number of patients required by the applicable protocol and completion of the statistical analysis of the study data.

1.15 " Compound " means the pump inhibiting compound known as HM30181A (a P-Glycoprotein inhibitor) owned by Hanmi and licensed to Kinex under the Hanmi License as diagrammed on **Schedule 1.1** attached hereto, and any pharmaceutically acceptable salts, hydrates, solvates, amides, prodrugs, metabolites, and esters of the foregoing, or mixtures thereof.

1.16 " Control " means possession of the ability to grant the rights and licenses as provided for herein without violating the terms of any agreement or arrangement with any Third Party.

1.17 " Copyright " means the right granted to an author or creator of an original work fixed in any tangible medium of expression, including without limitation, books, literary works, computer programs, and pictorial, graphic, dramatic and sculptured works, as well as derivative works and translations.

1.18 " Data " means any and all research data, pharmacology data, preclinical data, clinical data, chemistry, manufacturing and control (" **CMC** ") data and/or all other similar documentation necessary or useful for the Development or Commercialization of the Compound or Licensed Products.

1.19 " Develop " or " Development " means those activities undertaken with respect to the Compound or Licensed Products which are devoted to the progression of a potential pharmaceutical product in Clinical Studies and any other activities directed toward quality issues, publication, Regulatory Approval, formulation, production or CMC of the Compound or Licensed Products, including any other pre-launch activities.

1.20 " Disputed Claim " has the meaning set forth in Section 9.4(b).

1.21 " Dollar " or " $ " means the lawful currency of the United States.

1.22 " Drug Approval Application " means an application for Regulatory Approval of a Licensed Product as a pharmaceutical product in a regulatory jurisdiction.

1.23 " Effective Date " has the meaning set forth in the Preamble hereof.

1.24 " Field " means oral dosage pharmaceutical preparations for use in the treatment of oncologic indications.

1.25 " First Commercial Sale " means, with respect to any Licensed Product, the first sale to a Third Party for end use or consumption of such Licensed Product in a country in the Territory by PharmaEssentia , its Affiliates or sublicensees after receipt of Regulatory Approval in such country or, where Regulatory Approval is not required, then the first sale for end use or consumption of a Licensed Product to a Third Party in that country in the Territory in connection with the nationwide introduction of such Licensed Product in that country in the Territory by PharmaEssentia, its Affiliates or sublicensees.

1.26 " Free Sale Certificate " means a document issued by the Regulatory Authority of an exporting country certifying that the Licensed Product imported by another country is Licensed Product normally and freely sold in the exporting country's open markets and approved for export. In Taiwan, the relevant document is called a Certificate of Pharmaceutical Product.

1.27 " Generic Competition " shall be deemed to exist for a specific Licensed Product in a particular country as of any date if, during the two (2) immediately preceding Calendar Years, (a) Generic Products have a market share in the applicable country of at least thirty percent (30%) of the then combined unit volume of the applicable Licensed Product and Generic Products, or (b) at least one Generic Product is commercially introduced in such country and the Net Sales by PharmaEssentia of the applicable Licensed Product in the applicable country decrease by at least thirty percent (30%) with each of (a) and (b) measured as an average taken over such two (2) Calendar Years and compared to the Calendar Year immediately preceding the beginning of such two (2) Calendar Year period.

1.28 " Generic Product " means any pharmaceutical product that is (i) sold by a Third Party that is not a licensee or sublicensee of PharmaEssentia or its Affiliates or sublicensees, under a marketing authorization granted by a Regulatory Authority to such Third Party, (ii) contains the Compound as an active pharmaceutical ingredient, and (iii) is approved in reliance on the prior approval of a Licensed Product as determined by the applicable Regulatory Authority in the applicable country. Generic Product does not include any pharmaceutical preparation for an oncologic indication that is not delivered by oral dosage.

1.29 " Hanmi " means Hanmi Pharmaceuticals Co. Ltd., a South Korean corporation.

1.30 " Hanmi License " means the exclusive license from Hanmi to Kinex of the Compound in the Territory and elsewhere.

1.31 " IFRS " means International Financial Reporting Standards as adopted by the International Accounting Standard Board, consistently applied.

1.32 " Improvements " means all inventions and Know-How, patentable or otherwise, made, created, developed, conceived or reduced to practice by or on behalf of a Party and/or any of its Affiliates pursuant to activities relating to or contemplated by this Agreement during the Agreement Term, that are necessary or useful for the Development or Commercialization of the Compound or Licensed Products for use in the Field including developments in the manufacture, formulation, ingredients, preparation, presentation, means of delivery or administration, dosage, indication, methods of use or packaging and/or sale of the Compound or Licensed Products.

1.33 " IND " means an Investigational New Drug application similar to what is described in the United States in 21 C.F.R. Section 312.23, obtained for purposes of conducting Clinical Studies in accordance with the requirements of the Act and the regulations promulgated thereunder, including all supplements and amendments thereto relating to the use of the Compound or Licensed Products in the Field.

1.34 " Insurance " has the meaning set forth in Section 9.6(a).

1.35 " Intellectual Property " means Patent Rights, Know-How, Copyrights and Trademarks collectively, that are necessary or useful for the Development or Commercialization of the Compound or Licensed Products, including any Improvements thereto.

1.36 " Kinex Indemnified Parties " has the meaning set forth in Section 9.1.

1.37 " Kinex Intellectual Property " means the Kinex Patent Rights, Kinex Know-How and other Intellectual Property owned or Controlled by Kinex or any of its Affiliates.

1.38 " Kinex Know-How " means all Know-How that are owned or Controlled by Kinex or any of its Affiliates.

1.39 " Kinex Patent Rights " means all Patent Rights that are owned or Controlled by Kinex, Hanmi or any of their Affiliates as provided in Section 6.1, including the Patent Rights owned by Hanmi and licensed to Kinex as listed in **Schedule 1.2** .

1.40 " Know-How " means all proprietary information and technology, including trade secret information, developments, discoveries, methods, techniques, formulations, Data, and other information, whether or not patentable, that are necessary or useful for the Development or Commercialization of the Compound or Licensed Product, or any Improvement thereto, in the Field.

1.41 " Law(s) " means all laws, statutes, rules, regulations, ordinances and other pronouncements having the binding effect of law of any governmental authority.

1.42 " Licensed Product(s) " means Oraxol and Oratecan for use in the Territory.

1.43 " Losses " means any and all damages, awards, deficiencies, settlement amounts, defaults, assessments, fines, dues, penalties (including penalties imposed by any governmental authority), costs, fees, liabilities, obligations, taxes, liens, losses, lost profits and expenses (including court costs, interest and reasonable fees of attorneys, accountants and other experts) awarded or otherwise paid or payable to Third Parties.

1.44 " NDA " means a new drug application in any of the countries in the Territory similar to the NDA submitted to the United States Regulatory Authority to obtain approval for the marketing of a Licensed Product in the United States, together with all subsequent submissions, supplements and amendments thereto.

1.45 " Net Sales " means the gross sales amount of Licensed Products invoiced to Third Parties by PharmaEssentia, its Affiliates and sublicensees, less the following deductions (to the extent included in such gross sales amount):

(a) quantity and/or cash discounts therefor;

(b) customs, duties, sales and similar taxes;

(c) amounts allowed or credited by reason of rejections, return of goods (including as a result of recalls, market withdrawals and other corrective actions), and retroactive price reductions or allowances specifically identifiable as relating to a Licensed Product including allowances and credits related to inventory management or similar agreements with wholesalers;

(d) amounts incurred resulting from government (or any agency thereof) mandated rebate programs in the Territory;

(e) Third Party rebates, patient discount programs, administrative fees and chargebacks or similar price concessions related to the sale of a Licensed Product;

(f) bad debt actually included on PharmaEssentia's financial statements, provided that PharmaEssentia has made Commercially Reasonable Efforts to collect on such debts;

(g) the expenses for insurance, freight, packing, shipping and transportation;

(h) commissions paid to agents or distributors to secure tender offers or other purchases by local authorities; and

(i) as agreed by the Parties, such agreement not to be unreasonably withheld, any other specifically identifiable amounts included in a Licensed Product's gross sales amount that were or ultimately will be credited and that are similar to those listed above, all in accordance with IFRS.

All such discounts, allowances, credits, rebates and other deductions shall be fairly and equitably allocated to the applicable Licensed Product, and, to the extent applicable, other products or services of PharmaEssentia or its Affiliates or sublicensees such that the Licensed Products do not bear a disproportionate portion of such deductions. For the avoidance of doubt, Net Sales shall not include sales by PharmaEssentia to its Affiliates or sublicensees for resale; provided that , if PharmaEssentia sells a Licensed Product to an Affiliate or sublicensee for resale, then the Net Sales calculation shall based on the higher of (i) the amount invoiced PharmaEssentia to such Affiliate or sublicensee or (ii) the amount invoiced by such Affiliate or

sublicensee to the Third Parties on the resale of such Licensed Product. For purposes of this Agreement, "sale" shall not include transfers or other distributions or dispositions of a Licensed Product, at no charge, for regulatory purposes, clinical trials, samples, free products or in connection with patient assistance programs or other charitable purposes or to physicians or hospitals for promotional purposes. A Licensed Product shall be considered "sold" only when billed or invoiced.

1.46 " Ongoing Clinical Studies " means Clinical Studies with enrolled patients that are in the process of being conducted. For the avoidance of doubt, this does not include Clinical Studies where no patient dosing has occurred.

1.47 " Oratecan " means any oral dosage, chemotherapy drug that contains the Compound and Irinotecan as active pharmaceutical ingredients.

1.48 " Oraxol " means any oral dosage, chemotherapy drug that contains the Compound and Paclitaxel as active pharmaceutical ingredients.

1.49 " Party " means Kinex or PharmaEssentia, as the context may require.

1.50 " Parties' Patent Rights " has the meaning set forth in Section 6.3(a).

1.51 " Patent Rights " means any patents, patent applications, certificates of invention, or applications for certificates of invention and any supplemental protection certificates, together with any extensions, registrations, confirmations, reissues, substitutions, divisions, continuations or continuations-in-part, reexaminations or renewals thereof that claim or cover the Compound, any Licensed Product or any Improvement, including methods of development, manufacture, formulation, preparation, presentation, means of delivery or administration, dosage, packaging, sale or use thereof.

1.52 " PharmaEssentia Indemnified Parties " has the meaning set forth in Section 9.1.

1.53 " PharmaEssentia Know-How " means all Know-How that are owned or Controlled by PharmaEssentia as of the Effective Date and during the Agreement Term.

1.54 " PharmaEssentia Patent Rights " means all Patent Rights that are owned or Controlled by PharmaEssentia as of the Effective Date and during the Agreement Term, including as provided in Section 6.1.

1.55 " Phase I Clinical Study(ies) " means a Clinical Study that is intended to initially evaluate the safety or pharmacological effect of a Licensed Product in the Field in subjects or that would otherwise satisfy requirements of 21 CFR 312.2(a), or its foreign equivalent.

1.56 " Phase II Clinical Study(ies) " means a Clinical Study that is intended to initially evaluate the effectiveness of a Licensed Product in the Field in subjects or that would otherwise satisfy requirements of 21 CFR 312.21(b), or its foreign equivalent.

1.57 " Phase III Clinical Study(ies) " means a pivotal Clinical Study, the results of which could be used to establish safety and efficacy of a Licensed Product in the Field as a basis for Regulatory Approval or that would otherwise satisfy requirements of (i) 21 CFR 312.21(c) or its foreign equivalent or (ii) 21 CFR 505(b)(2) or its foreign equivalent.

1.58 " Prime Rate " means the rate announced from time to time by HSBC Bank, N.A. as its "prime rate" in New York, New York USA which is the base rate upon which other rates charged at such bank are based, and is the best rate available to premium customers at such bank.

1.59 " Product Label(ing) " shall have the same meaning as defined in the Act and as interpreted by the Regulatory Authority in each country in the Territory.

1.60 " Proprietary Information " means any and all scientific, clinical, technological, regulatory, marketing, financial and commercial information or data, whether communicated in writing, orally or by any other means, which is owned and under the protection of one Party and is provided by that Party to the other Party in connection with this Agreement, and shall include Kinex Know-How and PharmaEssentia Know-How, as applicable, and the Data.

1.61 " Purchase Invoice Price " means the cost to purchase Licensed Products based on invoices to PharmaEssentia, its Affiliates and sublicensees from the manufacturer (including trade discounts, rebates, trade allowance and excluding shipping costs, taxes and insurance).

1.62 " Regulatory Approval " means approval by the relevant Regulatory Authority of an NDA or other Drug Approval Application, health registration, common technical document, regulatory submission, notice of compliance and any other license or permit required to be approved for the supply, manufacture, use, storage, distribution, import, export, transport, promotion, marketing and sale of a Licensed Product in a country, region or other regulatory jurisdiction.

1.63 " Regulatory Authority " means any governmental authority in a country, region or other regulatory jurisdiction that regulates the supply, manufacture, use, storage, distribution, import, export, transport, promotion, marketing and sale of a Licensed Product.

1.64 " Sales Invoice Price " means the sales price invoiced by PharmaEssentia or its Affiliates or sublicensees to Third Parties for a Licensed Product.

1.65 " SEC " means the United States Securities and Exchange Commission and any successor agency having substantially the same functions.

1.66 " Substantial Level Generic Competition " shall be deemed to exist for a Licensed Product in a particular country as of any date if, during the two (2) immediately preceding Calendar Years, (a) Generic Products have a market share in the applicable country of at least sixty percent (60%) of the then combined unit volume of the applicable Licensed Product and Generic Products, or (b) at least one Generic Product is commercially introduced in such country and Net Sales of the applicable Licensed Product by PharmaEssentia in the applicable country decrease by at least sixty percent (60%) with each of (a) and (b) measured as an average taken over such two (2) Calendar Years and compared to the Calendar Year immediately preceding the beginning of such two (2) Calendar Year period.

1.67 " Territory " means Taiwan and Singapore. All other countries are expressly excluded and retained by Kinex.

1.68 " Third Party(ies) " means a person or entity who or which is neither a Party nor an Affiliate of a Party.

1.69 " Trademark " means the trademark(s) for which either Party has sought registration and all related service marks, domain names and other trademark related rights that are necessary or useful for the Development or Commercialization of the Licensed Products in the Field.

1.70 " Valid Claim " means any claim in an active patent application or issued in an unexpired patent which has not been held unenforceable, unpatentable or invalid by a decision of a court or other governmental agency of competent jurisdiction following exhaustion of all possible appeal processes, and which has not been admitted to be invalid or unenforceable through reissue, reexamination or disclaimer and has not been terminated for failure to pay maintenance fees.

ARTICLE 2
GRANT OF RIGHTS

2.1 Grants by Kinex . Subject to the terms and conditions of this Agreement, Kinex hereby grants to PharmaEssentia (a) an exclusive right and license throughout the Territory (and with the right to grant sublicenses, with the prior written permission of Kinex which consent may not be unreasonably withheld) in and to the Kinex Intellectual Property, to develop, label, package, import, export, promote, distribute, make, use, sell, offer for sale, register, commercialize and otherwise exploit the Licensed Product(s) in the Field, and (b) a non-exclusive right to manufacture, and to have an Affiliate or Third Party manufacture, the Compounds in the Territory but solely for use in the Licensed Products and for the purposes listed in 2.1(a) in the Territory; provided, however, that, notwithstanding the exclusive rights granted to PharmaEssentia hereunder, Kinex shall retain the right to use the Kinex Intellectual Property in the Territory other than for the promotion, distribution, sale, offer for sale, registration, or commercialization of Licensed Product(s) in the Field. Any Affiliates of PharmaEssentia exercising any rights of PharmaEssentia under this Agreement shall be located within the Territory; provided , however , that PharmaEssentia may use Affiliates or Third Parties located outside the Territory to assist in the development of the Licensed Products with the prior written consent of Kinex which consent may not be unreasonably withheld. With respect to sales to Third Party distributors or other parties purchasing Licensed Product for resale, PharmaEssentia shall use Commercially Reasonable Efforts to restrict such resales within the Territory, to the extent permitted by law.

A prior written approval of Kinex is required if PharmaEssentia will have a Third Party manufacture the Compound or Licensed Product(s) in the Territory; provided, however , that Kinex shall, upon a written request from PharmaEssentia, provide PharmaEssentia with the information on, access to, and/or assist with the execution by PharmaEssentia of agreements with, one or more manufacturers used by Kinex to manufacture the Licensed Products, and any and all such manufacturers shall be deemed to have been approved by Kinex for use by PharmaEssentia. If Kinex manufactures the Licensed Products internally, it shall, upon a written request from PharmaEssentia, manufacture the Licensed Products for PharmaEssentia and sell to PharmaEssentia at prices comparable to the price which would be charged by a Third Party manufacturer in the country of manufacture by Kinex.

***** = Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

2.2 Retained Rights; No Implied Licenses . All rights not specifically granted to PharmaEssentia under this Agreement are reserved and retained by Kinex. Nothing in this Agreement shall be deemed to constitute the grant of any license or other right to either Party, to or in respect of any product, patent, trademark, Proprietary Information, trade secret or other data or any other Intellectual Property of the other Party, except as set forth under this Agreement. Kinex expressly reserves and retains the right to develop or manufacture Licensed Products within the Territory for sale outside the Territory.

2.3 Second Right of Negotiation . While Hanmi has exclusively licensed Kinex to Development and Commercialize Oraxol and/or Oratecan in the Mainland China, Kinex must offer Hanmi a right of first negotiations for Hanmi to purchase back such right under certain circumstances (" **First Right** ") as set forth in a License Agreement entered into by and between Hanmi and Kinex dated June 28, 2013. Kinex hereby grants to PharmaEssentia the right to obtain a sublicense from Kinex for the Development and Commercialization of Oraxol and/or Oratecan in the Mainland China if and when Hanmi waives the First Right or the period for it to exercise the First Right expires (" **Second Right** "). If Hanmi waives the First Right or does not exercise the First Right when the period expires, Kinex shall notify PharmaEssentia in writing of the same. PharmaEssentia shall have five (5) days to deliver a written notice to Kinex of its intent to enter into negotiations to obtain a sublicense from for the Development and Commercialization of Oraxol and/or Oratecan as applicable in the Mainland China. If the Parties fail to reach a consensus on the sublicense terms and conditions within forty-five (45) days after PharmaEssentia's receipt of Kinex's written notification regarding the waiver or expiry of the First Right, then Kinex shall be free to Develop and Commercialize Oraxol and/or Oratecan as applicable by itself or sublicense a Third Party to do so in the Mainland China.

ARTICLE 3
INFORMATION TRANSFER; DEVELOPMENT AND COMMERCIALIZATION; REGULATORY MATTERS

3.1 Information and Transfer of Kinex Intellectual Property . As soon as practicable, but in no event later than forty-five (45) days after the Effective Date, Kinex shall disclose and deliver to PharmaEssentia electronic copies (or, upon PharmaEssentia 's written request, hard copy of the originals) in the English language of all Data necessary for and/or related to the Development and/or Commercialization in the Territory. In addition to the foregoing, Kinex shall provide PharmaEssentia with such assistance as PharmaEssentia may reasonably request in writing (at PharmaEssentia's cost and expenses) in connection with the foregoing disclosures, including making available, at PharmaEssentia's place of business (or such other location as the Parties may mutually agree upon), the assistance of such persons that were involved with the Kinex Intellectual Property.

3.2 Development and Commercialization .

(a) General . PharmaEssentia shall be responsible for and shall itself, or through its Affiliates or Third Parties, conduct Development and Commercialization in the Territory in the Field during the term of this Agreement. Within 60 days after the Effective Date, PharmaEssentia shall prepare a draft plan and budget (in English) for Development and Commercialization in each of the countries within the Territory and submit such draft plan to the Steering Committee (as defined in Section 3.4) which will agree on and oversee the plan for Development and Commercialization (the " **Development Plan** ") during the term of this Agreement. If PharmaEssentia fails to (i) file an IND with the Taiwan Regulatory Authority within six months after Kinex provides it with the IND that Kinex has filed with the United States Regulatory Authority, (ii) assuming that a 505b2 strategy is allowed by Taiwan FDA, enrollment of at least forty (40) patients for the Oraxol program within eighteen (18) months after IND is allowed by the Taiwan FDA, (iii) assuming that a 505b2 strategy is allowed, enrollment of at least forty (40) patients for the Oratecan program within 18 months after the IND for Oratecan is allowed by the Taiwan FDA, and (iv) file an application for a Free Sale Certificate within three (3) months after the approval of an NDA for each Licensed Product, all rights and licenses under this Agreement shall immediately terminate, provided, however, Kinex shall grant a six month extension on any of the foregoing timelines at the reasonable written request of PharmaEssentia prior to any termination of this Agreement.

(b) Summary Reports . Within ninety (90) days of the end of the first Calendar Year (i.e., 2014) following the Effective Date and each year thereafter during the term of this Agreement, PharmaEssentia shall provide Kinex with a written summary of Development and Commercialization undertaken on a country by country basis during the then current Calendar Year consistent with written reports issued by PharmaEssentia in the ordinary course of its business.

(c) Clinical Studies . PharmaEssentia will be responsible for, and conduct and administer at its sole cost and expense, all the studies required for Regulatory Approval in each of countries within the Territory. Notwithstanding the foregoing, if a Phase 1 study is required by Taiwan FDA (instead of a direct 505b2 approach), Kinex shall reimburse PharmaEssentia for all Third Party costs and expense incurred by PharmaEssentia for up to sixteen (16) patients in connection with the conduct of any Phase I Clinical Study required by the Taiwan Regulatory Authority for the first IND filed with the Taiwan Regulatory Authority. Specifically, PharmaEssentia will:

(i) conduct all Clinical Studies in the Territory for both Oraxol and Oratecan in support of the clinical strategy under the Development Plan; and

(ii) participate in the Phase III Studies for Oraxol and Oratecan in such a manner in conjunction with Kinex which will support PharmaEssentia's application for the Regulatory Approval of Licensed Product in each of the countries within the Territory.

Any failure to comply with the foregoing will be considered a breach of this Agreement.

(d) Referencing Data . The Data and results of any Clinical Studies or other studies conducted by a Party or its ex-Territory partners shall be made available to the other Party for referencing at no cost to the requesting Party for the Regulatory Approval filing purposes, and each Party hereby grants to the other Party a right to use such Data for the Development and Commercialization of the Compounds and Licensed Products, provided, however , that with respect to the right granted to PharmaEssentia, such right shall be limited to the Development and Commercialization of the Compounds and the Licensed Products in the Field in the Territory. Each Party shall make such Data and results of any Clinical Studies available to the other Party in the English language within forty-five (45) days of receipt of such Data or results of any Clinical Studies.

(e) Payment of Development and Commercialization Costs . PharmaEssentia shall be responsible for all costs associated with the Development and Commercialization of the Licensed Products in the Territory. Notwithstanding the generality of the foregoing, (i) PharmaEssentia shall reimburse Kinex for the direct costs incurred by Kinex in carrying out any Development within the Territory that has been authorized or approved in writing in advance by PharmaEssentia and is for the benefits of PharmaEssentia, and (ii) Kinex shall be responsible for all costs associated with the issuance of a Free Sale Certificate by the Regulatory Authority of Taiwan after the Regulatory Approval.

(f) Records . Under this Agreement, PharmaEssentia shall maintain records, in sufficient detail and in good scientific manner appropriate for patent and regulatory purposes and in accordance with good industry practice, which shall be complete and accurate in all material respects and shall fully and properly reflect all work done and results achieved, including all Know-How and including individual case report forms, in the form required by applicable Laws.

(g) Promotional Materials and Activities . PharmaEssentia shall create and develop the advertising and promotional materials for the Licensed Products in the Territory with the written approval of Kinex (which shall not be unreasonably withheld). As the holder of the Regulatory Approvals in the Territory, PharmaEssentia shall be responsible for all submissions and interactions with the Regulatory Authorities regarding the Licensed Product-related promotional materials that require the Regulatory Approval.

(h) Ownership of Copyrights and Trademarks . Kinex retains all rights to establish a global brand for each of the Licensed Products and shall own all Copyrights and Trademarks for the Licensed Products in the Territory; provided, however , that Kinex shall grant PharmaEssentia to use such Copyrights and Trademarks to Develop and Commercialize the Licensed Products in the Territory free of charge, unless otherwise provided for in this Agreement. PharmaEssentia shall be responsible for searching, clearing and filing applications for registration of all such Trademarks at its sole cost in accordance with Kinex's global branding strategy. Kinex shall execute all documents and take all actions as are reasonably requested in writing by PharmaEssentia with respect to such filings and registrations.

(i) Sales of Licensed Products . All sales of the Licensed Products shall be made, recorded, invoiced and collected by PharmaEssentia. All terms regarding the Licensed Product sales, including terms respecting credit, pricing, cash discounts, rebates, chargebacks, bad debt write-offs, and other fees and charges, and returns and allowances shall be set solely by PharmaEssentia.

(j) Compliance with Laws . PharmaEssentia shall in all material respects comply with all applicable laws and applicable guidelines concerning the advertising, sales and marketing of prescription drug products in Commercializing the Licensed Products in the Territory, including without limitation, the U.S. Foreign Corrupt Practices Act of 1977, as amended (" **FCPA** ") and any applicable local anti-bribery laws. PharmaEssentia represents and warrants to Kinex that, (i) as of the Effective Date, PharmaEssentia and its Affiliates have a system of internal accounting controls in place that are sufficient to provide reasonable assurances of compliance as required by the FCPA, and (ii) PharmaEssentia shall obligate its Affiliates that engage in the Development or Commercialization of the Licensed Products to do the same; to bring any non-compliance therewith (should it ever occur) to PharmaEssentia's attention; and to promptly remedy any such non-compliance. PharmaEssentia and its Affiliates shall maintain such procedures throughout the term of this Agreement and shall promptly notify Kinex in writing with respect to any material non-compliance (other than non-compliance of the FCPA which shall be without regard to materiality) regarding the Commercialization of the Licensed Products.

(k) Supply of Licensed Product . Kinex shall supply PharmaEssentia free of charge, in accordance with regulatory requirements and as requested in writing by PharmaEssentia, the Licensed Products that are sufficient for the Clinical Studies (up to 80 patients) in the Territory.

3.3 Regulatory Matters .

(a) PharmaEssentia's Responsibility .

From and after the Effective Date, PharmaEssentia shall:

(i) have sole authority and responsibility for the timely preparation, filing and prosecution of all filings, submissions, authorizations or approvals with the Regulatory Authorities, and shall own and control all such filings, submissions, authorizations and approvals, including any IND, NDA or other Drug Approval Application in the Territory; and provide Kinex with copies of all such filings, submissions, authorizations and approvals upon reasonable written request of Kinex, at PharmaEssentia's sole cost and expense.

(ii) be the primary contact with each Regulatory Authority in the Territory and solely responsible for all communications with each Regulatory Authority that relate to any IND, NDA, or other Drug Approval Application in the Territory, provided , however , that upon the reasonable written request of PharmaEssentia, Kinex shall provide appropriate personnel to participate in discussions with a Regulatory Authority, at PharmaEssentia's cost and expense, regarding the regulatory review process and shall assist and advise PharmaEssentia in and on the application for the Regulatory Approval.

(iii) from and after receipt of each Regulatory Approval, have the exclusive authority and responsibility to submit all reports or amendments necessary to maintain the Regulatory Approvals and seek revisions of the conditions of each such Regulatory Approval in the Territory, if necessary, and keep Kinex informed of any such actions, and have the sole authority and responsibility to seek and/or obtain any necessary approvals of any Product Label, or prescribing information, package inserts, monographs and packaging used in connection with any Licensed Product, as well as promotional material used in connection with any Licensed Product, and determine whether the same requires Regulatory Approval in the Territory.

(iv) with respect to each Licensed Product, be responsible to obtain and provide to Kinex, at Kinex's cost and expense, a Certificate of Pharmaceutical Product from the Regulatory Authority in the Territory, after Kinex has obtained the Regulatory Approval for the Commercialization of the applicable Licensed Product in any countries outside the Territory, including the responsibility to prepare and submit all applications and other filings to the Regulatory Authority, and be the primary contact for communications with such Regulatory Authority.

(b) Regulatory Cooperation . Each Party is responsible concerning adverse drug reactions, safety information and compliance with regulatory requirements. PharmaEssentia is responsible for providing any such data to Kinex that is required by the United States Regulatory Authority. The Parties hereby agree that they will each make Commercially Reasonable Efforts in coordinating their respective regulatory, Development and Commercialization efforts.

(c) Pharmocovigilence . During the term of this Agreement, each of the Parties will notify appropriate Regulatory Authorities in accordance with applicable law, and the other Party, promptly after receipt of information with respect to any serious adverse event (as defined by the ICH Harmonized Tripartite Guideline on Clinical Safety Data Management), directly or indirectly attributable to the use or application of any Compound or Licensed Product.

(d) Product Recalls . If any Regulatory Authority having jurisdiction in the Territory requests to recall a Licensed Product due to a defect in the manufacture, processing, packaging or labeling of such Licensed Product or for any other reason, PharmaEssentia shall immediately notify Kinex. PharmaEssentia shall have the sole right and responsibility, at its expense, to initiate all recall procedures required or requested by such Regulatory Agency. PharmaEssentia shall be responsible, at its expense, for carrying out any such recall as expeditiously as possible and in such a way in order to cause the least disruption to the sales of the Licensed Product and preserve the goodwill and reputation of PharmaEssentia and Kinex. PharmaEssentia agrees to maintain the appropriate record and procedures to permit the recall of the Licensed Product.

3.4 Appointment and Administration of Steering Committee

(a) As soon as practicable after the execution of this Agreement and in no event later than thirty (30) days after the Effective Date, the Parties will establish a four (4) person steering committee to oversee and review the Development and Commercialization of the Products in the Territory, which will include two (2) representatives appointed by PharmaEssentia and two (2) appointed by Kinex (the " **Steering Committee** ") and be chaired by one of the representatives of PharmaEssentia. All actions, decisions and approvals of the Steering Committee shall be unanimous. The representatives appointed by each Party shall include at least a senior officer of such Party who is either (i) responsible for product development, or (ii) has substantial experience in product development for similar products who is acceptable to the other Party. Each Party, at its sole discretion, may at any time during the term of this Agreement replace any representative it has appointed upon prior written notice to the other Party. Each Party shall procure its respective representatives to attend all meetings of the Steering Committee. Each Party will bear the travel and out-of-pocket expenses incurred by its representatives in connection with the Steering Committee's meetings.

(b) The Steering Committee will meet at least once every Calendar Quarter on the dates and at times and places as agreed in writing by the Parties. The Steering Committee may also convene or be polled or consulted from time to time by means of telecommunications, video conferences or correspondence, as deemed by the Parties to be necessary or appropriate.

(c) If there is a disagreement within the Steering Committee, the members of the Steering Committee shall promptly present the disagreement to the executive of each of PharmaEssentia and Kinex who has the principal responsibility for his respective company's work under this Agreement. Once informed, such executives shall meet to discuss each Party's view and to explain the basis for such disagreement. If such executives are unable to resolve such dispute with thirty (30) days of such meeting, then (i) such dispute shall be submitted to a panel of three independent experts agreed upon by PharmaEssentia and Kinex if it is a clinical dispute, (ii) such dispute shall be submitted to arbitration if it involves the interpretation or enforcement of this Agreement, (iii) for all disputes not covered by (i) or (ii) that are applicable only to issues in the Territory, then PharmaEssentia's decision will be final and binding or (iv) for all disputes not covered by (i) or (ii) that are applicable to issues both within and outside the Territory, then Kinex's decision will be final and binding.. Any arbitration shall be conducted in English in Hong Kong in accordance with commercial arbitration rules of the International Chamber of Commerce.

(d) The Steering Committee will have the authority to approve (i) the Development Plan and any amendment thereto, (ii) the protocols for Clinical Trials of the Licensed Products (including patient selection), (iii) any and all contracts relating to the Development of the Licensed Product, (iv) the formulation used in respect of the Licensed Product, and (v) any and all contracts relating to the Commercialization of Licensed Product.

ARTICLE 4
PAYMENTS AND STATEMENTS

4.1 Milestone Fees . In consideration of the rights granted by Kinex hereunder, PharmaEssentia shall pay Kinex the following milestone fees, contingent upon occurrence of the specified events, with each milestone fee to be paid no more than once with respect to the achievement of the relevant milestone event:

(a)	Effective Date	US$50,000
(b)	Initiation anywhere in the Territory of 505b2 strategy registration studies or one Phase III Clinical Study for the regular NDA approval process	US$0.5M
(c)	Filing of an NDA for the Regulatory Approval for Oraxol in any country in the Territory	US$***
(d)	Filing of an NDA for the Regulatory Approval for Oratecan in any country in the Territory	US$***
(e)	Regulatory Approval of all the Licensed Products in the Territory	US$***

Except that the first milestone fee in US$50,000 shall be paid on the Effective Date, all the other milestone fees shall be paid by PharmaEssentia within sixty (60) days after the achievement of the relevant milestone event. Once a milestone event occurs, all the earlier milestones events will be deemed to have occurred, and any payment for such earlier milestones shall be due and payable to the extent they have not already been paid. If Phase III Clinical Study is required by the Taiwan Regulatory Authority for Oraxol for the regular NDA registration process, the payment for the Regulatory Approval for the first Licensed Product (Milestone) will be reduced by 50%, i.e to USD ***.

4.2 Incentive Payments . To provide incentive to PharmaEssentia to achieve the milestone events set forth in this Agreement, Kinex shall pay to PharmaEssentia:

(a) US$*** if PharmaEssentia completes Phase II or 505b2 studies Clinical Studies for at least eighty (80) patients within thirty (30) months following the Effective Date; and

(b) US$*** if a Free Sale Certificate is issued by the Taiwan Regulatory Authority within 12 months of the Regulatory Approval in Taiwan (the amounts stated in (a) and (b) above, collectively referred to as " **Incentive Payments** ").

Kinex shall pay PharmaEssentia the Incentive Payment(s) within ninety (90) days of the occurrence of the relevant milestone event(s).

******* = **Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

4.3 Royalties .

(a) In consideration of the rights granted by Kinex hereunder, in addition to the milestone fees stipulated under Section 4.1 above, PharmaEssentia shall pay Kinex an annual royalty equivalent to ***% of the aggregate Net Sales generated in any Calendar Year (“ **Royalties** ”).

(b) The royalty rate set forth above shall be reduced to ***% for any Licensed Product sold in any country in which the Generic Competition exists for such Licensed Product; and shall be reduced to zero (0) if the Substantial Level Generic Competition exists for such Licensed Product in a country.

(c) If PharmaEssentia does not manufacture the Licensed Products and PharmaEssentia’s Purchase Invoice Price exceeds the following percentages of Sales Invoice Price for all Licensed Products invoiced during any Calendar Quarter by PharmaEssentia, its Affiliates and sublicensees, then the ***% royalty rate set forth in (a) above shall be reduced for such Calendar Quarter as follows:

(i) If the Purchase Invoice Price exceeds ***% of the Sales Invoice Price on the first US$1M of Net Sales for the relevant Calendar Year, the royalty rate will be reduced by a percentage calculated as ***% minus the percentage by which the Purchase Invoice Price exceeds ***% of the Sales Invoice Price; and

(ii) With respect to all annual Net Sales in excess of US$1M, if the Purchase Invoice Price exceeds ***% of the Sales Invoice Price, the royalty rate will be reduced by a percentage calculated as ***% minus the percentage by which the Purchase Invoice Price exceeds ***% of the Sales Invoice Price.

The quantity of the Licensed Products that should be included in the calculation of the Purchase Invoice Price for the applicable Calendar Quarter shall be equal to the quantity of the Licensed Products included in the calculation of the Sales Invoice Price for the applicable Calendar Quarter. Inventory of the Licensed Products held by PharmaEssentia shall be included in any calculation for purposes of this Section on a FIFO basis (first in first out).

If the Purchase Invoice Price exceeds 20% of the Sales Invoice Price for any Calendar Quarter during the first five years of the Net Sales, Kinex shall have the option to terminate this Agreement upon written notice to PharmaEssentia and payment to PharmaEssentia of an amount equal to all milestone fees previously paid by PharmaEssentia to Kinex minus all Incentive Payments previously paid by Kinex to PharmaEssentia.

4.4 Royalty Reports and Payments .

(a) Royalty Payments . Within sixty (60) days following the end of each Calendar Quarter that Royalties are payable by PharmaEssentia to Kinex, PharmaEssentia shall submit to Kinex a written report containing, with respect to such Calendar Quarter and for the then-current Calendar Year through the end of such Calendar Quarter, an accounting on a country-by-country basis of gross sales, Net Sales of PharmaEssentia, its Affiliates and sublicensees, Purchase Invoice Price, Sales Invoice Price, and Royalties, payable in accordance with Section 4.3(a) to (c) for such Calendar Quarter, with a breakdown of all deductions taken in any such calculations, in accordance with the definition of “Net Sales”. Any conversion to United States Dollars shall be calculated in accordance with Section 4.5(c). In the event of any royalty reduction during any Calendar Quarter due to Generic Competition in any country in the Territory, the report for such Calendar Quarter shall also show the basis for the determination of such Generic Competition. Royalties shown to have accrued by each report shall be due and payable within thirty (30) days from the date on which such report is due.

(b) PharmaEssentia shall continue to furnish Kinex a written report on a country-by-country basis for the next four Calendar Quarters after Royalties are no longer payable in a country within thirty (30) days following the date on which the Royalties would have become due, and shall state the basis for PharmaEssentia’s exemption of the Royalties. PharmaEssentia shall thereafter have no further obligation to include in a report the Net Sales of such Licensed Product in such country for purposes of the royalty calculation for any Calendar Quarter. This obligation shall survive the termination or expiration of this Agreement.

(c) Each Party shall keep and shall require its Affiliates and sublicensees to keep complete and accurate records in sufficient detail to permit accurate determination of all amounts and calculation and verification of all payment obligations set forth in this Article 4 for a period of 36 months from the end of the relevant Calendar Quarter.

4.5 General Payment Provisions .

(a) Payment Method . All payments under this Agreement shall be made in United States Dollars by bank wire transfer in immediately available funds to an account designated by each of Kinex and PharmaEssentia, as applicable.

(b) Withholding Taxes . With respect to the milestone fees, PharmaEssentia shall act as the tax agent of Kinex and make all required withholding or other tax payments to, and file all appropriate tax form with, the Taiwanese taxing authority(ies) at Kinex's expense.

With respect to all other payments under this Agreement, the payor may deduct the amount of any taxes imposed on the payee which are required to be withheld or collected by the payor, its Affiliates or sublicensees under the laws, rules or regulations of any country on amounts owing hereunder. Any such taxes required to be withheld or collected shall be an expense of the payee.

The payee shall provide the payor any tax forms that may be reasonably necessary in order for the payor to not withhold tax or to withhold tax at a reduced rate, and the payor shall apply the reduced rate of withholding, or dispense with withholding, as the case may be, if permitted by law. Each Party shall provide the other with reasonable assistance to enable the recovery, as permitted by applicable laws, of withholding taxes, value added taxes, and similar obligations resulting form payments made under this Agreement, such recovery to be for the benefit of the Party bearing such withholding tax or value added tax. If the payor, its Affiliates or sublicensees pays such withholding taxes to the appropriate governmental authority on behalf of the payee, the payor shall deliver to the payee the proof of payment of such taxes as soon as possible.

(c) Currency Exchange . For purposes of computing the Royalties, the Net Sales shall be converted to United States Dollars using the year-to-date average rate of exchange for United States Dollars used by PharmaEssentia for its internal financial accounting purposes; provided , however , that if for any reason conversion into United States Dollars cannot be made in a country in the Territory, then notwithstanding the provisions of Section 4.5(a), payment may be made in the currency of such country by deposit in the name of Kinex in a bank account designated by Kinex in such country.

(d) Except as otherwise defined herein, all financial calculations by either Party under this Agreement shall be in accordance with IFRS. In addition, all calculations shall give pro rata effect and be proportionally adjusted (by giving effect to the number of applicable days in such Calendar Quarter).

4.6 Audits . Upon the written request of Kinex, PharmaEssentia shall permit an independent certified public accounting firm of recognized standing, selected by Kinex and reasonably acceptable by PharmaEssentia (provided that such accounting firm shall not be retained or compensated on a contingency basis and shall have entered into a confidentiality agreement with PharmaEssentia in form and substance reasonably satisfactory to PharmaEssentia), to have access not more than once in any Calendar Year, during normal business hours, to such of the records of PharmaEssentia as may be reasonably necessary to verify the accuracy of the reports under Section 4.4 hereof for any Calendar Year ending not more than twenty-four (24) months prior to the date of such request. The accounting firm shall disclose to Kinex whether the reports are correct or incorrect, the specific details concerning any discrepancies (including the accuracy of the calculation of Net Sales and the resulting effect of such calculations on the amounts payable by PharmaEssentia under this Agreement), and such other information that should properly be contained in a report required under this Agreement (the "Audit Report")

(a) If such accounting firm concludes that additional amounts were owed for such Calendar Year, and PharmaEssentia agrees in writing with such conclusion, then the PharmaEssentia shall pay the additional payments, together with interest at the Prime Rate on the amount of such additional payments, within thirty (30) days of the date on which Kinex delivers the Audit Report to PharmaEssentia. If such accounting firm concludes that amounts were overpaid by PharmaEssentia during such Calendar Year, Kinex shall refund PharmaEssentia the amount of such overpayment, together with interest at the Prime Rate on the amount of such overpayment, within thirty (30) days of the date on which Kinex delivers the Audit Report to PharmaEssentia. The fees charged by such accounting firm shall be paid by Kinex; provided , however , that if the underpayment exceeds five percent (5%), then the fees and expenses of the accounting firm shall be paid by PharmaEssentia.

(b) Upon the expiration of twenty-four (24) months following the end of any Calendar Year for which PharmaEssentia or Kinex has made payment in full of amounts payable with respect to such year, and in the absence of negligence or willful misconduct of PharmaEssentia or Kinex or a contrary finding by an accounting firm pursuant to Section 4.6(a), such calculation shall be binding and conclusive upon PharmaEssentia and Kinex, and PharmaEssentia or Kinex, as applicable, shall be released from any liability or accountability with respect to royalties or other payments for such year.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES

5.1 General Representations . Each Party hereby represents and warrants to the other Party as follows:

(a) Such Party is a corporation duly organized, validly existing and is in good standing under the laws of the jurisdiction of its incorporation, is qualified to do business and is in good standing as a foreign corporation in each jurisdiction in which the conduct of its business or the ownership of its properties requires such qualification and failure to have such would prevent it from performing its obligations under this Agreement;

***** = Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

(b) The execution, delivery and performance by such Party of this Agreement has been duly authorized by all necessary corporate action and do not and will not (i) violate any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to it or any provision of its charter or bylaws; or (ii) conflict with or constitute a default under any other agreement to which such Party is a party;

(c) This Agreement has been duly executed and is a legal, valid and binding obligation of such Party, enforceable against it in accordance with the terms and conditions hereof, except as enforceability may be limited by (i) any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditor's rights generally, or (ii) general principles of equity, whether considered in a proceeding in equity or at law;

(d) Such Party is not under any obligation to any person or entity, contractual or otherwise, that is in conflict with the terms of this Agreement, nor shall such Party undertake any such obligation during the Agreement Term;

(e) Such Party has obtained all authorizations, consents and approvals, governmental or otherwise, necessary for the execution and delivery of this Agreement, and to otherwise perform such Party's obligations under this Agreement;

(f) Neither Party, nor any of its Affiliates, are a party to, or are otherwise bound by, any oral or written contract that will result in any person or entity obtaining any interest in, or that would give to any Third Party any right to assert any claim in or with respect to, any of such Party's or the other Party's rights under this Agreement, other than those restrictions under Hanmi License as expressly stated in this Agreement; and

(g) Such Party shall perform its obligations hereunder in accordance with all applicable Laws.

5.2 Additional Representations and Warranties of Kinex . Kinex represents and warrants to PharmaEssentia that:

(a) As of the Effective Date in the Territory, to the knowledge of Kinex, (i) there is no Third Party infringement of any of the Kinex Intellectual Property; and (ii) the Kinex Intellectual Property is in full force where filed; (iii) the Kinex Patent Rights where filed are not subject to any pending or threatened re-examination, re-issue, opposition, interference, challenge, litigation proceeding or other claim, and (iv) Kinex has only filed or prosecuted patent applications with respect to the Kinex Intellectual Property in the countries in the Territory as set forth on Schedule 1.2 to this Agreement;

(b) To the knowledge of Kinex, Kinex has not committed any act, or omitted to commit any act, that may cause the Kinex Patent Rights where filed to expire prematurely or be declared invalid or unenforceable, or that stops Kinex from enforcing the Kinex Patent Rights where filed against any Third Party;

(c) As of the Effective Date in the Territory, (i) Kinex has the right to use and disclose and enable PharmaEssentia to use and disclose (in each case under appropriate conditions of confidentiality) the Kinex Know-How; and (ii) the Kinex Intellectual Property is not subject to any encumbrance, lien, license or claim of ownership by any Third Party in the Territory, other than those under Hanmi License;

(d) Kinex shall not assign, transfer, encumber or grant rights in or with respect to the Kinex Intellectual Property inconsistent with the rights granted to PharmaEssentia under this Agreement; and

(e) The Data and information provided to PharmaEssentia or its Affiliates prior to the Effective Date relating to pre-clinical studies in the Field related to Compound has been accurate in all respects to the knowledge of Kinex and Kinex has not knowingly made any misrepresentation or omission in connection with such Data and information. Kinex has also provided PharmaEssentia or its Affiliates with access to summaries of all adverse events known to Kinex relating to the Compound.

5.3 Additional Representations and Warranties of PharmaEssentia . PharmaEssentia represents and warrants to Kinex that:

(a) PharmaEssentia shall not assign, transfer, encumber or grant rights in or with respect to the PharmaEssentia Intellectual Property inconsistent with the rights granted to Kinex under this Agreement.

ARTICLE 6
PATENT MATTERS

6.1 Ownership of Inventions .

(a) Except as otherwise provided in and subject to the terms of this Agreement:

(i) Kinex shall have and retain all right, title and interest in or Control over, as applicable, all Intellectual Property (and Patent Rights arising thereunder) existing, owned or Controlled by it on the Effective Date, subject to the licenses and other rights granted to PharmaEssentia under this Agreement. Kinex will also have all right, title and interest in or Control over all Intellectual Property (and Patent Rights arising thereunder) which is discovered, made, first conceived, reduced to practice or generated solely by its employees and/or agents as a result of the Development that are necessary or useful for the Development and/or Commercialization of the licensed Products; provided , however , during the term of this Agreement, PharmaEssentia shall have the right to use and sublicense such Intellectual Property, free of charge, with respect to the Licensed Products in the Territory.

(ii) PharmaEssentia shall have and retain all right, title and interest in or Control over all Intellectual Property (and Patent Rights arising thereunder; " **PharmaEssentia Patent Rights** ") which is discovered, made, first conceived, reduced to practice or generated solely by its employees, agents and/or other persons as a result of the Development that are necessary or useful for the Development or Commercialization of the Licensed Products; provided, however , during the term of this Agreement, Kinex shall have the right to use and sublicense such Intellectual Property, free of charge, in relation to any products containing the Compound (or any other compound for oral dosage) as an active pharmaceutical ingredient within and outside the Territory other than for the Licensed Products within the Territory.

(iii) Any Intellectual Property (and Patent Rights arising thereunder) which is discovered, made, first conceived, reduced to practice or generated jointly by the Parties shall be jointly owned by the Parties. PharmaEssentia shall have the right to use and sublicense such Intellectual Property, free of charge, with respect to the Licensed Products in the Territory. Kinex shall have the right to use and sublicense such Intellectual Property, free of charge, in relation to any products containing the Compound (or any other compound for oral dosage) as an active pharmaceutical ingredient within and outside the Territory other than for the Licensed Products within the Territory during the term of this Agreement and thereafter Kinex shall also be able to use and sublicense such Intellectual Property for the Licensed Products within the Territory.

(b) Employees and Agents . Each of Kinex and PharmaEssentia shall require all of its and its Affiliates' employees to assign all inventions and corresponding patent applications that are discovered, made, first conceived, reduced to practice or generated by such employees for the performance of this Agreement to Kinex or PharmaEssentia according to the ownership principles described in Section 6.1(a). Each Party shall use Commercially Reasonable Efforts to require any Third Parties working on any Clinical Study or any Development or who receive materials relating to the Licensed Product or Know-How from a Party, to assign ownership or grant a sublicenseable exclusive license on a fully paid-up, royalty-free basis to all inventions and corresponding Patent Rights that are developed, made or conceived by such Third parties for the performance of this Agreement to Kinex or PharmaEssentia according to the ownership principles described in Section 6.1(a).

6.2 Maintenance and Prosecution .

(a) Kinex Patent Rights . Kinex shall have the right to file, prosecute and maintain the Kinex Patent Rights in Kinex's name within and outside the Territory, using patent counsel selected by Kinex and shall be responsible for the payment of all patent prosecution and maintenance costs. Kinex will inform PharmaEssentia on the patent applications in the Territory. As of the Effective Date, Kinex is the exclusive licensee under Hanmi License of the patents and patent applications set forth in Schedule 1.2 to this Agreement. If Kinex elects not to prosecute or maintain a patent application or patent included in the Kinex Patent Rights in the Territory, it shall provide PharmaEssentia with no less than forty-five (45) days' written advance notice sufficient to avoid any loss or forfeiture, and, subject to Kinex's written consent, PharmaEssentia shall then have the right, but not the obligation, at its sole expense, to maintain such Patent Rights in its name in the Territory.

(b) PharmaEssentia Patent Rights . PharmaEssentia shall have the right to file, prosecute and maintain the PharmaEssentia Patent Rights in PharmaEssentia's name within and outside the Territory, using patent counsel selected by PharmaEssentia and shall be responsible for the payment of all patent prosecution and maintenance costs. PharmaEssentia will inform Kinex on the patent applications within and outside the Territory. If PharmaEssentia elects not to file, prosecute or maintain a patent application or patent included in the PharmaEssentia Patent Rights within or outside the Territory, it shall provide Kinex with no less than forty-five (45) days' written advance notice sufficient to avoid any loss or forfeitt.re, and Kinex shall then have the right, but not the obligation, at its sole expense, to file, prosecute or maintain such Patent Right in its name.

(c) The Parties shall mutually agree on the filing, prosecution and maintenance of any patent application or patent included in the Patent Rights under Section 6.1(a)(iii) within or outside the Territory.

***** = Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

(d) The responsible Party under this Section 6.2hall solicit the other Party's review of the nature and text of any patent applications within and outside the Territory resulting from the Development in reasonably sufficient time prior to the filing thereof, and the responsible Party shall take into account the other Party's reasonable comments related thereto. Each Party shall execute all documents and take all actions as are reasonably requested by the other Party with respect to any filings and registrations.

6.3 Third Party Infringement .

(a) Each Party shall promptly give the other Party notice of any actual or suspected infringement by a Third Party in the Territory of any patent included in the Kinex Patent Rights or PharmaEssentia Patent Rights relating to the Compound or Licensed Products (collectively, the " **Parties' Patent Rights** "), which comes to such Party's attention. In addition, PharmaEssentia shall promptly give Kinex notice of any actual or suspected infringement by a Third Party outside the Territory of any patent included in the Parties' Patent Rights. The Parties shall thereafter consult and cooperate to determine a course of action, including the commencement of legal action but only with respect to any infringement within the Territory.

(b) Kinex shall have the first right, either directly or through its Affiliates or licensees, to initiate and prosecute such legal action in the Territory at its own expense and in the name of Kinex and/or PharmaEssentia , or to control the defense of any declaratory judgment action in the Territory relating to the Parties' Patent Rights, and Kinex shall provide PharmaEssentia with reasonable notice of any such action it commences and keep PharmaEssentia reasonably informed of any significant developments in such action. PharmaEssentia shall render, at its expense (including reasonable attorneys' fees), all assistance reasonably requested in connection with any action taken by Kinex or to prevent such infringement. However, the control of such action, including whether to initiate any legal proceeding and/or the settlement thereof, shall solely be under the control of Kinex; provided that Kinex shall not settle any such claim or proceeding in a manner that materially adversely affects PharmaEssentia's rights under this Agreement or which financial results in any material monetary payment by or loss to PharmaEssentia, without the prior written consent of PharmaEssentia, which consent shall not be unreasonably withheld.

(c) If Kinex notifies PharmaEssentia that it elects not to initiate and prosecute an infringement or defend a declaratory judgment action in any country in the Territory as provided in Section 6.3(b), then PharmaEssentia may elect, which election shall be subject to the prior written consent of Kinex to take such action that is reasonably necessary and appropriate to terminate or prevent such infringement, including instituting an infringement proceeding, provided , however , that PharmaEssentia shall not enter into any settlement or compromise of any claim relating to the Parties' Patent Blights licensed hereunder or which results in any material monetary payment by or financial loss to Kinex, without Kinex's prior written consent, which consent shall not be unreasonably withheld.

(d) Kinex shall have the sole right, either directly or through its Affiliates or licensees to initiate and prosecute any legal action outside the Territory with respect to the Kinex Patent Rights at its own expense or to control the defense of any declaratory judgment action outside the Territory.

(e) For any legal action or defense contemplated by this Section 6.3, in the event that any Party is unable to initiate, prosecute, or defend such action solely in its own name, the other Party shall join such action and execute all documents necessary for the former Party to prosecute, defend and maintain such action. In connection with any such action, the Parties will cooperate fully and will provide each other with any information or assistance that either reasonably may request. Any recovery or award obtained by either Party as a result of any action or settlement commenced with respect to infringement within the Territory shall be shared as follows:

(i) the Party that initiated and prosecute , or maintained the defense of, the action shall recoup all of its costs and expenses (including reasonable attorneys' fees) incurred in connection with the action, whether the recovery is by settlement or otherwise;

(ii) if there are any additional funds after the payment set forth in subsection (i) has been made, the other Party may recover its reasonably documented costs and expenses (including reasonable outside attorneys' fees) incurred in connection with the action;

(iii) if Kinex initiated and prosecuted, or maintained the defense of, the action outside the Territory, the amount of any recovery remaining then shall be retained by Kinex; and

(iv) if PharmaEssentia or Kinex initiate and prosecuted, or maintained the defense of, the action in the Territory, the amount of any recovery remaining then shall be shared equally by the parties.

6.4 Third Party Intellectual Property .

(a) In the event that a Party becomes aware of any claim that the Development and/or Commercialization of any Licensed Products infringes the intellectual property rights of any Third Party in the Territory, such Party shall promptly notify the other Party. The Parties shall thereafter discuss the situation, and to the extent reasonably necessary, attempt to agree on a course of action.

(b) If within ten (10) Business Days the Parties fail to agree upon an appropriate course of action in the Territory, Kinex shall have the first right, but not the obligation, either directly or through its Affiliates or licensees to defend any action in the Territory related to the intellectual property rights of any Third Party or to initiate and prosecute legal action in the Territory related to the intellectual property rights of any Third Party in the name of PharmaEssentia and/or Kinex. Kinex shall keep PharmaEssentia reasonably informed as to the progress of any such action. PharmaEssentia shall render, at its expense, all assistance reasonably requested in connection with any action taken by Kinex. However, the control of such action, including whether to initiate any legal proceeding and/or the settlement thereof, shall solely be under the control of Kinex; provided that Kinex shall not settle any such claim or proceeding in a manner that materially adversely affects PharmaEssentia's rights under this Agreement or which results in any material monetary payment by or financial loss to PharmaEssentia, without PharmaEssentia's written consent. Kinex shall pay for all costs and expenses incurred in such defense.

(c) If Kinex elects not to defend an infringement action in any country in the Territory as provided in Section 6.4(b), PharmaEssentia may defend in its name, subject to the prior written consent of Kinex, and the costs of any legal action commenced or any infringement action defended, shall be borne solely by PharmaEssentia; provided, however, that PharmaEssentia shall not enter into any settlement or compromise of any claim without the prior written consent of Kinex,.

(d) For any such legal action or defense, in the event that any Party is unable to initiate, prosecute, or defend such action solely in its own name, the o her Party shall join such action and execute all documents necessary for the former Party to prosecute, defend and maintain such action. In connection with any such action, the Parties will cooperate fully and will provide each other with any information or assistance that either reasonably may request.

(e) Kinex shall have the sole right, but not the obligation, either directly or through its Affiliates or licensees to defend any action related to the intellectual property rights outside the Territory of any Third Party or to initiate and prosecute legal action outside the Territory related to the intellectual property rights of any Third Party in its name.

6.5 Patent Term Extensions . The Parties shall cooperate with each other in obtaining patent term extensions or restorations or supplemental protection certificates or their equivalents in any country in the Territory where applicable and where desired by PharmaEssentia. Elections with respect to obtaining such extension or supplemental protection certificates shall be made in the same manner and with the same relative priorities pursuant to Section 6.2.

6.6 Patent Marking . PharmaEssentia shall mark, and shall require its Affiliates and sublicensees to mark, all the Licensed Products sold or distributed pursuant to this Agreement in accordance with the applicable patent statutes or regulations in the country or countries of manufacture and/or sale thereof.

6.7 Third Party Agreements . The rights and obligations of the Parties under this Article 6 are subject to the rights and obligations of Kinex under Hanmi License.

ARTICLE 7
CONFIDENTIALITY AND PUBLICITY

7.1 Non-Disclosure and Non-Use Obligations . All Proprietary Information disclosed by one Party to the other Party hereunder shall be maintained in confidence and shall not be disclosed to any Third Party or used for any purpose except as expressly permitted herein without the prior written consent of the Party that disclosed the Proprietary Information to the other Party during the term of this Agreement and or a period of ten (10) years thereafter. The foregoing non-disclosure and non-use obligations shall not apply to the extent that such Proprietary Information:

(a) is known by the receiving Party at the time of its receipt, and not through a prior disclosure by the disclosing Party, as documented by records;

(b) is or becomes properly in the public domain or knowledge without breach by either Party;

(c) is subsequently disclosed to a receiving Party by a Third Party who may lawfully do so and is not under an obligation of confidentiality to the disclosing Party; or

(d) is developed by the receiving Party independently of Proprietary Information received from the disclosing Party, as documented by contemporary written records.

7.2 Permitted Disclosure of Proprietary Information . Notwithstanding Section 7.1, a Party receiving Proprietary Information of another Party may disclose such Proprietary Information:

(a) to governmental or other regulatory agencies 41 order to obtain patents pursuant to this Agreement, or to gain approval to conduct Clinical Studies or to market Licensed Product, but such disclosure may be only to the extent reasonably necessary to obtain such patents or authorizations and in accordance with the terms of this Agreement or as otherwise requested by the Regulatory Authorities;

(b) by either Party to its agents, consultants, sublicensees or Affiliates on the condition that such entities agree to be bound by confidentiality obligations consistent with this Agreement; or

(c) if required to be disclosed by law or court order, provided that notice is promptly delivered to the non-disclosing Party in order to provide an opportunity to .challenge or limit the disclosure obligations.

(d) Certain Disclosures . Except as set forth in this Agreement or as required by law, neither Party shall make any press release or other public announcement or other public disclosure to a Third Party concerning the existence of or terms of this Agreement, the subject matter of this Agreement or the activities contemplated hereunder, without ,the prior written consent of the other Party, which consent shall include agreement upon the nature and text of such release, announcement or other disclosure and shall not be unreasonably withheld or delayed. Each Party agrees to provide to the other Party a copy of any such press release or other public announcement or disclosure as soon as reasonably practicable under the circumstances prior to its scheduled release. Each Party shall have the right to expeditiously (but in any event within forty-eight (48) hours) review and recommend changes to any such press release or other public announcement or disclosure; provided , however , that such right of review and recommendation shall only apply for the first time that specific information is to be disclosed, and shall not apply to the subsequent disclosure of substantially similar information that has previously been disclosed unless there have been material developments relating to Licensed Product since the date of the previous disclosure; provided , further , that each Party shall provide to the other Nifty reasonable advance notice of any such subsequent disclosure. Without limiting the generality of any of the foregoing, it is understood that the Parties or their Affiliates may make disclosure of this Agreement and the terms hereof in accordance with the rules and regulations of the SEC, other governmental authority, or securities exchange, may file this Agreement as an exhibit to any filing with the SEC, other governmental authority, or securities exchange, and may distribute any such filing in the ordinary course of its business, provided , further , that to the maximum extent allowable by the rules and regulations of the SEC, other governmental authority, or securities exchange, and except as required by applicable Laws, Kinex and PharmaEssentia shall seek to redact any confidential information set forth in such filings, and each Party shall provide a draft of the redacted version of this Agreement to the other Party no less than five (5) Business Days prior to filing with the SEC, other governmental authority, or securities exchange, and give reasonable consideration to the other Party's comments regarding any proposed redaction.

7.3 Publications . PharmaEssentia shall not submit for written or oral publication any manuscript, abstract or the like relating to the Compound or Licensed Products, without the prior approval or written request of Kinex. If PharmaEssentia desires to submit such publication, it shall first deliver to Kinex, for Kinex's prior written consent, the proposed publication or an outline of the oral disclosure at least sixty (60) days prior to planned submission or presentation.

7.4 Publicity : Except as otherwise provided in this Agreement or required by law or regulation, no Party will originate any news release or other public announcement, written or oral, whether in the public press, stockholders' reports or otherwise, relating to this Agreement or to any sublicense under this Agreement, or to the performance under this Agreement or under any sublicense under this Agreement, without the prior written approval of the other Party, which approval will not be unreasonably withheld or delayed; provided that the foregoing shall not restrict disclosures made in connection with any filing of information or materials with a stock exchange or the U.S. Securities and Exchange Commission or any stockholders' letter to private investors.

ARTICLE 8
TERM AND TERMINATION

8.1 Term and Expiration. This Agreement shall be binding on the Parties as of the Effective Date and, unless terminated early under Section 8.2, expire upon the earliest to occur of either (i) the expiration of the Kinex Patent Rights in all countries in the Territory or (ii) invalidation of the Kinex Patent Rights in all countries in the Territory. After the occurrence of (i) or (ii) above, the term of this Agreement shall automatically be extended for consecutive one (1) year periods subject to the same terms and conditions set forth herein (unless agreed otherwise) unless either Party gives written notice of its intention not to extend the Agreement Term: (i) at least ninety (90) days prior to the expiration date of the Kinex Patent Rights; or (ii) as soon as practically possible in the case of an invalidation claim; and (iii)thereafter, at least ninety (90) days prior to the then current annual expiration date of the Agreement.

8.2 Early Termination of Agreement Term .

(a) This Agreement may be terminated upon mutual agreement of the Parties.

(b) Termination by PharmaEssentia .

PharmaEssentia may terminate this Agreement in its sole discretion upon not less than six (6) months prior written notice of termination provided anytime after the Effective Date (provided , however , that no such termination shall be effective until the completion of any then Ongoing Clinical Studies). The cost involved during the six-month notice period plus any period needed for completion of any Ongoing Clinical Studies will also be borne by PharmaEssentia. In addition, if any milestone is met PharmaEssentia prior to the termination date, PharmaEssentia will also be responsible for the mile tone payment.

(c) Termination by Either Party .

Either Party may, without prejudice to any other remedies available to it under this Agreement or at law or in equity, terminate this Agreement prior to expiration of the Agreement Term in the event that the other Party (as used in this subsection, the " **Breaching Party** ") shall have materially breached or defaulted in the performance of any of its material obligations hereunder, and has not cured such breach wit n (i) thirty (30) days after notice of such breach is provided to the Breaching Party in case the breach is a non-payment of any amount due under this Agreement that is not being disputed in good faith (which shall be deemed a material breach of a material obligation) and (ii) sixty (60) days after notice of such breach is provided to the Breaching Party for other cases bf breach (or, if such default cannot be cured within such 60-day period, if the Breaching Part does not commence and diligently continue actions to cure such default during such 60-day period). The termination shall become effective at the end of the (i) 30-day period in case the breach is a non-payment of any amount due under this Agreement that is not being disputed in good faith if the Breaching Party has not cured such breach by such date, or (ii) for other cases of breach, 60-day period unless (a) the Breaching Party cures such breach during such 60-day period, or (b) if such breach is not susceptible to cure within such 60-day period, the Breaching Party has commenced and is diligently pursuing a cure (unless such breach, by its nature, is incurable, in which case the Agreement may not be terminated unless the Breaching Party fails to use its best commercially reasonable efforts to prevent a similar subsequent breach). The right of either Kinex or PharmaEssentia to terminate this Agreement as provided in this Section 8.2(c) shall not be affected in any way by such Party's waiver or failure to take action with respect to any previous breach or default.

8.3 Effect of Expiration or Termination; Survival .

(a) Expiration or termination of this Agreement shall not relieve the Parties of any obligation accruing prior to such expiration or termination, including all accrued payment obligations arising under Article 4 hereof. In addition to any other provisions of this Agreement which by their terms continue after the expiration of this Agreement, the provisions of Article 3.2(h), 4.4(b), 7 and 9 shall survive the expiration or termination of this Agreement and shall continue in effect after the date of expiration or termination for the longer of (i) five (5) years after the last sale of Licensed Product in the Territory, or (ii) the respective periods specified therein. In addition, any other provisions required interpreting and enforcing the Parties' rights and obligations under this Agreement shall also survive, but only to the extent required for the full observation and performance of this Agreement. Any expiration or early termination of this Agreement shall be without prejudice to the rights of any Party against the other accrued or accruing under this Agreement prior to termination. Except as expressly set forth herein, the rights to terminate as set forth herein shall be in addition to all other rights and remedies available under this Agreement, at law, or in equity, or otherwise.

(b) Payments of amounts owing to Kinex under this Agreement as of its expiration or termination shall be due and payable either (i) to the extent such amounts can be calculated and a fixed sum determined at the time of expiration or termination of this Agreement, thirty (30) days after the date of such expiration or termination, or (ii) to the extent such amounts cannot be calculated and a fixed sum determined at the time of expiration or termination of this Agreement, thirty (30) days after the date at which such amounts can be calculated and fixed sum determined.

(c) Subject to the payment of all amounts required hereunder, PharmaEssentia and its Affiliates shall have the right to sell or otherwise dispose of the stock of any Licensed Product subject to this Agreement on hand or in process of manufacture as of the expiration or termination of this Agreement. Within thirty (30) days after the effective date of termination or expiration of this Agreement, PharmaEssentia shall notify Kinex of the amount of Licensed Products PharmaEssentia, its Affiliates and sublicensees then have on and or in the process of manufacture and shall have the right to sell in the Territory (except with respect to any country in the Territory in which Licensed Products have been withdrawn or there is o Regulatory Approval), its remaining stock of Licensed Products for a period ending up n the earlier of: (i) PharmaEssentia's, its Affiliates' and sublicensees' sale of all such remaining Licensed Products, or (ii) six (6) months after such termination or expiration, and terms and condition of this Agreement shall apply to such Licensed Products so sold. Kinex hereby grants a non- elusive license under the Kinex Intellectual Property to PharmaEssentia solely to sell such Licensed Products in the Territory, subject to payment of all related amounts due under this Agreement. Any remaining quantities of Licensed Products not sold during this period shall, at Kinex's election, either be destroyed by PharmaEssentia at PharmaEssentia's cost or sold to Kinex at PharmaEssentia's procurement cost for such Licensed Products.

******* = **Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

(d) Upon the termination or expiration of this Agreement, the following shall also be applicable: (i) at Kinex's written request, PharmaEssentia shall promptly transfer and return to Kinex copies of all Data, reports, records and materials in PharmaEssentia's possession or control that relate to Compound or Licensed Products and return to Kinex all relevant records and materials in PharmaEssentia's possession or control containing Proprietary Information of Kinex (provided that PharmaEssentia may keep one copy of such Proprietary Information of Kinex for archival purposes only); (ii) PharmaEssentia shall transfer to Kinex all right, title and interest in and Control over all Intellectual Property owned and Controlled of PharmaEssentia and arising from inventions during the Agreement Term as described in Section 6.1(a) (ii) of this Agreement, (iii) PharmaEssentia shall transfer to Kinex any and all INDs, Regulatory Approvals, Drug Approval Applications and any other regulatory filings or submissions made or filed for Licensed Product by PharmaEssentia or its designees; and (iv) Kinex shall promptly return to PharmaEssentia 11 relevant records and materials in Kinex's possession or control containing Proprietary Information of PharmaEssentia (provided that Kinex may keep one copy of such Proprietary Information of PharmaEssentia for archival purposes only).

ARTICLE 9
INDEMNIFICATION AND INSURANCE

9.1 Indemnity . For purposes of this Article 9, " Kinex Indemnified Parties " refers to Kinex, its Affiliates and the officers, directors, employees, shareholders, agents and successors and assigns of Kinex and its Affiliates, and " PharmaEssentia Indemnified Parties " refers to PharmaEssentia , its Affiliates and officers, directors, employees, shareholders, agents and successors and assigns of PharmaEssentia and its Affiliates.

9.2 PharmaEssentia Indemnification . PharmaEssentia shall defend the Kinex Indemnified Parties from and against all suits, claims, act or other proceedings, (collectively, " **Claims** "), that are brought by a Third Party, and shall indemnify and hold harmless to the fullest extent permitted by law the Kinex Indemnified Parties from and against any and all Losses, that arise out of or are attributable to, (i) PharmaEssentia's negligence, recklessness or willful misconduct in exercising or performing any of its rights or obligations under this Agreement; or (ii) a material breach by PharmaEssentia of any of its obligations, representations, warranties or covenants under this Agreement; provided , however , that PharmaEssentia shall not be obligated under this Section 9.2, to the extent it is shown by evidence acceptable in a court of law having jurisdiction over the subject matter and meeting the appropriate degree of proof for such Claim that the Claim arose out of the negligence or wrongdoing on the part of Kinex.

9.3 Kinex Indemnification . Kinex shall defend the PharmaEssentia Indemnified Parties from and against all Claims, in each case that are brought by a Third Party, and shall indemnify and hold harmless to the fullest extent permitted by law the PharmaEssentia Indemnified Parties from and against any and all Losses that arise out of such Claims that are attributable to, (i) Kinex's negligence, recklessness or willful misconduct in exercising or performing any of its rights or obligations under this Agreement; or (ii) a material breach by Kinex of any of its obligations, representation , warranties or covenants under this Agreement; provided , however , that Kinex shall not be obligated under this Section 9.3, to the extent it is shown by evidence acceptable in a court of la having jurisdiction over the subject matter and meeting the appropriate degree of proof for such Claim that the Claim arose out of the negligence or wrongdoing on the part of PharmaEssentia.

9.4 Indemnification Procedure.

(a) Each Party shall promptly notify the other Party in writing of any Claim. Concurrent with the provision of notice pursuant to this Section 9.4(a), the Indemnified Party shall provide to the other Party copies of any complaint, summons, subpoena or other court filings or correspondence related to such Claim and will give such other information with respect thereto as the other Party shall reasonably request. The Indemnifying Party and Indemnified Party shall meet to discuss how to respond to such Claim. Failure to provide prompt notice shall not relieve any Party of the duty to defend or indemnify unless such failure materially prejudices the defense of any matter. Each Party agrees that it will take reasonable steps to minimize the burdens of the litigation on witnesses and on the ongoing business of the Indemnified Parties including making reasonable accommodations to witnesses' schedules when possible and seeking appropriate protective orders limiting the duration and/or location of depositions.

(b) Should either Party dispute that any Claim or portion of a Claim (" **Disputed Claim** ") of which it receives notice pursuant to Section 9.4(a), is an indemnified Claim, it shall so notify the other Party providing written notice in sufficient time to permit such other Party to retain counsel and timely appear, answer and/or move in any such action. In such event, such other Party shall defend against such Claim; provided , however , that such other Party shall not settle any Claim which it contends is an indemnified Claim without providing the Indemnifying Party ten (10) Business Days' notice prior to any such settlement and an opportunity to assume the defense and indemnification of such Claim pursuant to this Agreement. If it is determined that a Disputed Claim is subject to indemnification, the Indemnifying Party will reimburse the costs and expenses, including reasonable attorneys' fees, of the Indemnified Party.

9.5 Settlement of Indemnified Claims . The Indemnifying Party under Sections 9.2 or 9.3, as applicable, shall have the sole authority to settle any Indemnified Claim without the consent of the other Party, provided , however , that an Indemnifying Party shall not, without the written consent of the other Party, as part of any settlement or compromise (i) admit to liability on the part of the other Party; (ii) agree to an injunction against the other Party; or (iii) settle any matter in a manner that separately apportions fault to the other Party. The Parties further agree that as part of the settlement of any Indemnified Claim, an Indemnifying Party shall obtain a full, complete and unconditional release from the claimant on behalf of the Indemnified Parties.

9.6 Insurance .

(a) Kinex shall obtain and shall maintain, at its cost, No Fault insurance for Clinical Trials on behalf, and insuring the activities, of both Kinex and PharmaEssentia relating to this Agreement with minimum limits of $5,000,000 per occurrence during the period when such Clinical Studies are being conducted under this Agreement. Such Insurance shall insure against all liability arising out of the manufacture, use, sale, distribution, or marketing of Licensed Products in and for the Territory.

(b) PharmaEssentia shall maintain in the Territory, commencing as of the First Commercial Sale, commercial general liability insurance (including coverage for product liability, contractual liability, bodily injury, property damage and personal injury), in form and substance reasonably satisfactory to the other Party, with minimum limits of $5,000,000 per occurrence or, in case of Clinical Studies, $5,000,000 per occurrence during the period when such Clinical Studies are being conducted (the " Insurance "). If such Insurance is written on a claims-made form, it shall continue for three (3) years following the last sale of Licensed Products by PharmaEssentia. The Insurance shall have retroactive date to or coinciding with the First Commercial Sale. Notwithstanding the foregoing, PharmaEssentia may satisfy the foregoing obligation with respect to the Insurance through self-insurance.

(i) Such Insurance shall insure against all liability arising out of the manufacture, use, sale, distribution, or marketing of Licensed Products in and for the Territory. During the Agreement Term, PharmaEssentia shall not permit such Insurance to be reduced, expired, materially amended or canceled during the period of the Insurance and/or the Agreement without reasonable prior written notice that shall be sent by registered mail to Kinex. Upon request in writing, PharmaEssentia shall provide certificates of insurance to Kinex evidencing the coverage specified herein.

(ii) The Insurance shall contain an explicit clause, stating that each Party and its insurer waive their rights of subrogation against the other Party and its directors, employees and/or any one on its behalf with respect to the Insurance. Such waiver shall not apply in the event of a malicious act.

(c) Except as expressly stated herein, a Party's liability to the other is in no way limited to the extent of the Party's insurance coverage.

(d) Any Insurance provided for in this Section 9.6 shall be primary to any other insurance maintained by each Party and each Party hereby waives any claim or demand as to participation in any such other insurance.

(e) Any Insurance provided for in this Section 9.6 shall be valid in any location worldwide regarding the activities performed by each Party hereunder (including worldwide jurisdictions) for any destination or lawsuit which will be served against the other Party.

9.7 Limitation of Liability . IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER OR ANY OF ITS AFFILIATES FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING LOST PROFITS, BUSINESS OR GOODWILL) SUFFERED OR INCURRED BY SUCH OTHER PARTY OR ITS AFFILIATES, WHETHER BASED UPON A CLAIM OR ACTION OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT, OR OTHERWISE, ARISING OUT OF THIS AGREEMENT. THE FOREGOING SENTENCE SHALL NOT LIMIT THE OBLIGATIONS OF EITHER PARTY TO INDEMNIFY THE OTHER PARTY FROM AND AGAINST THIRD PARTY CLAIMS UNDER THIS ARTICLE.

ARTICLE 10
MISCELLANEOUS

10.1 Force Majeure . Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached the Agreement for failure or delay in fulfilling or performing any term of the Agreement during the period of time when such failure or delay is caused by or results from events beyond the reasonable control of a Party, including fire, flood, earthquake, explosion, storm, blockage, embargo, war, acts of war (whether war be declared or not), terrorism, insurrection, riot, civil commotion, strike, lockout or other labor disturbance, failure of public utilities or common carriers, act of God or act, omission or delay in acting by any governmental authority or the other Party. The affected Party shall notify the other Party of such force majeure circumstances as soon as reasonably practicable.

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10.2 Assignment . The Agreement may not be assigned or otherwise transferred without the prior written consent of the other Party; provided , however , that either Party may assign this Agreement to an Affiliate or in connection with the transfer or sale of its business or all or substantially all of its assets or in the event of a merger, consolidation, change in control or similar corporate transaction or by Kinex to Hanmi under Hanmi License, without such consent; provided further , that such assignment shall not relieve the Party of its responsibilities for performance of its obligations under this Agreement. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties. Any assignment not in accordance with this Agreement shall be void.

10.3 Severability . In the event that any of the provisions contained in this Agreement are held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby, unless the absence of the invalidated provision(s) adversely affects the substantive rights of the Parties. In such event, the Parties covenant and agree to renegotiate any such term, covenant or application thereof in good faith in order to provide a reasonably acceptable alternative to the term, covenant or condition of this Agreement or the application thereof that is invalid or unenforceable, it being the intent of the Parties that the basic purposes of this Agreement are to be effectuated.

10.4 Notices .

(a) Correspondence, reports, documentation, and any other communication in writing between the Parties in the course of ordinary implementation of this Agreement (but not including any notice required by this Agreement) shall be in writing and delivered by hand, sent by email, or by overnight express mail (*e.g.* , FedEx) to any one (1) representative designated by the Party which is to receive such written communication.

(b) Extraordinary notices and communications (including but not limited to notices of termination, force majeure, material breach, change of address, or any other notices required by this Agreement) shall be in writing and shall be deemed to have been given when delivered in person, or sent by overnight courier service (*e.g.* , FedEx), postage prepaid, or by facsimile confirmed by prepaid registered or certified air mail letter or by overnight express mail (*e.g.* , FedEx), or sent by prepaid certified or registered air mail, return receipt requested, to the following addresses of the Parties (or to such other address or addresses as may be specified from time to time in a written notice), and shall be deemed to have been properly served to the addressee upon receipt of such written communication, to the following addresses of the Parties:

if to Kinex to:

K1NEX PHARMACEUTICALS, LLC
701 Ellicott Street
Buffalo, New York 14203USA
Attention: Chief Executive Officer
Fax No.: 716-849-6651

if to PharmaEssentia to:

PHARMAESSENTIA CORP
13F, No. 3 YuanQu Street
Nankang District, Taipei 115, TAIWAN
Attention: Chief Executive Officer
Fax No.: +886-2-2655-7626

or to such other address as the Party to whom notice is to be given may have furnished to the other Parties in writing in accordance herewith. Any such communication shall be deemed to have been given when delivered if personally delivered or sent by facsimile on a Business Day, upon confirmed delivery by nationally-recognized overnight courier if so delivered, and on the third Business Day following the date of mailing if sent by registered or certified mail.

10.5 Specific Performance . Each of the Parties acknowledges and agrees that the other Party may suffer irreparable and continuing damage for which there is no adequate remedy at law in the event of a breach or threatened breach of this Agreement. Accordingly, and notwithstanding anything herein to the contrary, each of the Parties agrees that the other Party shall be entitled to seek injunctive relief to prevent breaches of the provisions of this Agreement, and/or to enforce specifically this Agreement and the terms and provisions hereof, in any action instituted in any court or tribunal having jurisdiction over the Parties and the matter, without posting any bond or other security, and that such injunctive relief shall be in addition to any other remedies to which such Party may be entitled, at law or in equity.

******* = **Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

10.6 Further Assurances . Each of the Parties shall take such further actions as shall be necessary or desirable in order to effectuate the respective rights and obligations hereunder.

10.7 Applicable Law, Venue and Dispute Resolution . This Agreement shall be governed by the laws of the State of New York without regard to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply in any action, suit or proceeding arising out of or relating to this Agreement. Except as provide in Section 10.5, with regard to actions of specific performance, all disputes which arise in connection with this Agreement and its interpretation shall be settled amicably between the Parties. If the dispute cannot be settled in an amicable manner, it will be settled by arbitration to be held in Hong Kong in conformity with commercial arbitration rules of the International Chamber of Commerce. The award rendered by arbitration shall be final and binding upon the Parties hereto.

10.8 Entire Agreement . This Agreement, including the exhibits and schedules hereto, contains the entire understanding of the Parties with respect to the subject matter. All express or implied agreements and understandings, either oral or written, heretofore made, including any offering letters, letters of intent, or term sheets, are expressly superseded by this Agreement. This Agreement may be amended, or any term hereof modified, only by a written instrument duly executed by all Parties hereto.

10.9 Independent Contractors . It is expressly agreed that the Parties shall be independent contractors and that the relationship between the Parties shall not constitute a partnership, joint venture or agency. Neither Party shall have the authority to make any statements, representations or commitments of any kind, or to take any action, which shall be binding on the other Party, without the prior consent of such other Party.

10.10 Waiver . The waiver by a Party hereto of any right hereunder or the failure to perform or of a breach by another Party shall not be deemed a waiver of any other right hereunder or of any other breach or failure by said other Party whether of a similar nature or otherwise.

10.11 Headings; References . The captions to the several Articles and Sections hereof are not a part of the Agreement, but are merely guides or labels to assist in locating and reading the several Articles and Sections hereof. Any reference in this Agreement to an Article, Exhibit, Schedule or Section shall, unless otherwise specifically provided, be to an Article, Exhibit, Schedule or Section of this Agreement. The words “including”, “includes” and “such as” are used in their non-limiting sense and have the same meaning as “including without limitation” and “including but not limited to.” “Hereunder” and “hereto” means under or pursuant to any provision of this Agreement.

10.12 Interpretation . Both Parties have had the opportunity to have this Agreement reviewed by an attorney; therefore, neither this Agreement nor any provision hereof shall be construed against the drafter of this Agreement.

10.13 Counterparts . The Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures to the Agreement transmitted by fax, by email in “portable document format” (“.pdf”) or by any other electronic means intended to preserve the original graphic and pictorial appearance of the Agreement shall have the same effect as physical delivery of the paper document bearing an original signature.

10.14 No Third Party Beneficiaries . Except as specifically set forth herein, none of the provisions of this Agreement shall be for the benefit of or enforceable by any Third Party, including any creditor of either Party hereto. No such Third Party shall obtain any right under any provision of this Agreement or shall by reasons of any such provision make any claim in respect of any debt, liability or obligation (or otherwise) against either Party hereto.

***** = Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

IN WITNESS WHEREOF , the Parties have executed this Agreement as of the date first set forth above.

KINEX PHARMACEUTICALS, INC.

By: /s/ Johnson YN Lau
Name: Johnson YN Lau
Title: Chief Executive Officer

PHARMAESSENTIA CORP.

By: /s/ Ching-Leou Teng
Name: Ching-Leou Teng
Title: Chairman

SCHEDULE 1.1 DIAGRAM OF COMPOUND
SCHEDULE 1.2 KINEX PATENT RIGHTS

***** = Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

SCHEDULE 1.1
DIAGRAM OF COMPOUND

***

***

***** = Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

SCHEDULE 1.2
PATENT RIGHTS

Country	Status	Patent App. No.	Filing Date	Patent No.	Grant Date	Expiry Date
***	***	***	***	***	***	***
***		***	***			
***			***			

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Exhibit 10.13

Executed

FOIA CONFIDENTIAL TREATMENT REQUESTED
Confidential Materials omitted and filed separate with the Securities and Exchange Commission
Triple asterisks denote omissions

LICENSE AGREEMENT

by and between

KINEX PHARMACEUTICALS, LLC

and

GUANGZHOU XIANGXUE NEW DRUG DISCOVERY AND DEVELOPMENT COMPANY LIMITED

May 6th, 2012

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TABLE OF CONTENTS

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THIS LICENSE AGREEMENT (this "Agreement") is made as of May 6th, 2012, by and between **KINEX PHARMACEUTICALS, LLC**, a limited liability company organized and existing under the laws of the State of Delaware USA and having its principal office at 701 Ellicott Street, Buffalo, New York 14203, USA ("Kinex") and **GUANGZHOU XIANGXUE NEW DRUG DISCOVERY AND DEVELOPMENT COMPANY LIMITED**, a Chinese company existing under the laws of China and having its principal office at 2 Jinfengyuan Road, Guangzhou, CHINA 510663 ("XPH").

B A C K G R O U N D:

Kinex owns or Controls the Kinex Intellectual Property of 10(02 (also known as KX2-361) and is developing the Compound for oncology and other indications;

XPH and its Affiliates have experience in the development, marketing, promotion and sale of pharmaceutical products predominately in China; and XPH desires to obtain the exclusive right and license in the Territory to further develop and thereafter commercialize a Licensed Compound and its product for oncology indications in the Field; and

Kinex desires to grant to XPH such exclusive right and license in the Territory, all on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual representations, warranties and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1

DEFINITIONS

Unless specifically set forth to the contrary herein, the following terms, whether used in the singular or plural, shall have the respective meanings set forth below:

1.1 "Act" means the United States Food, Drug, and Cosmetic Act of 1938, as amended, and the rules and regulations promulgated thereunder, or any successor act, as the same shall be in effect from time to time.

1.2 "Affiliate" means with respect to a Party (a) any corporation or business entity of which more than fifty percent (50%) of the securities or other ownership interests representing the equity, the voting stock or general partnership interest are owned, controlled or held, directly or indirectly, by a Party; (b) any corporation or business entity which, directly or indirectly, owns, controls or holds more than fifty percent (50%) (or the maximum ownership interest permitted by law) of the securities or other ownership interests representing the equity, voting stock or general partnership interest of a Party; (c) any corporation or business entity of which, directly or indirectly, an entity described in the immediately preceding subsection (b) controls or holds more than fifty percent (50%) (or the maximum ownership interest permitted by law) of the securities or other ownership interests representing the equity, voting stock or general partnership interest of such corporation or entity; or (d) any corporation or business entity of which a Party has the right to acquire, directly or indirectly, more than fifty percent (50%) of the securities or other ownership interests representing the equity, voting stock or general partnership interest thereof

1.3 "Agreement Term" has the meaning set forth in Section 9.1(a).

1.4 "Breaching Party" has the meaning set forth in Section 9.2(b).

1.5 "Business Day" means any calendar day, except that if an activity to be performed or an event to occur falls on a Saturday, Sunday or a day which is recognized as a national holiday in the place of performance of an applicable activity or occurrence of an applicable event, then the activity may be performed or the event may occur on the next day that is not a Saturday, Sunday or nationally recognized holiday.

1.6 "Calendar Quarter" means for each Calendar Year, each of the three (3) month periods ending on March 31, June 30, September 30 and December 31; provided, however, that (i) the first Calendar Quarter of any period specified under this Agreement shall extend from the commencement of such period to the end of the first complete Calendar Quarter thereafter; and (ii) the last Calendar Quarter shall end upon the expiration or termination of this Agreement.

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1.7 “Calendar Year” means, for the first Calendar Year, the period commencing on the Effective Date and ending on December 31, 2012, and for each year thereafter, each successive period beginning on January 1 and ending twelve (12) consecutive calendar months later on December 31.

1.8 “CFR” means the United States Code of Federal Regulations.

1.9 “cGMP” means current good manufacturing practices.

1.10 “Claims” has the meaning set forth in Section 10.2.

1.11 “Clinical Studies” means any clinical studies of a Licensed Product conducted on humans.

1.12 “Commercialize” or “Commercialization” means promotion, marketing, sale, supply, manufacture, import, export and distribution of Licensed Products, including any educational or prelaunch activities.

1.13 “Commercially Reasonable Efforts” means exerting such efforts and employing such resources as would normally be exerted or employed by a Party for its other drug candidates and pharmaceutical products of a comparable stage of development and commercial potential and this includes all the milestones described in Article 4.

1.14 “Completion” means, with respect to any Clinical Study, the completion of treatment for the necessary number of patients required by the applicable protocol and completion of the statistical analysis of the study data.

1.15 “Compound” means KX-02 (also known as KX2- 361) that cannot be developed, manufactured, used, sold, offered for sale, or imported without infringing one or more valid claims of the Intellectual Property related to the Compound and the Licensed Product, as diagrammed on **Schedule 1.1** attached hereto, and any pharmaceutically acceptable salts, hydrates, solvates, and prodrugs of the foregoing, or mixtures thereof.

1.16 “Control” means possession of the ability to grant the rights and licenses as provided for herein without violating the terms of any agreement or arrangement with any Third Party.

1.17 “Copyright” means the right granted to an author or creator of an original work fixed in any tangible medium of expression, including without limitation, books, literary works, computer programs, and pictorial, graphic, dramatic and sculptured works, as well as derivative works and translations.

1.18 “Data“ means any and all research data, pharmacology data, preclinical data, clinical data, chemistry, manufacturing and control (“CMC”) data and/or all other similar documentation necessary or useful for the Development or Commercialization of the Compound or Licensed Products.

1.19 “Develop” or “Development” means those activities undertaken with respect to the Compound or Licensed Products which are devoted to the progression of a potential pharmaceutical product in Clinical Studies and any other activities directed toward quality issues, publication, Regulatory Approval, formulation, production or CMC of the Compound or Licensed Products, including any other pre-launch activities.

1.20 “Disputed Claim” has the meaning set forth in Section 10.4(b).

1.21 “Dollar” or “$” means the lawful currency of the United States.

1.22 “Drug Approval Application” means an application for Regulatory Approval of a Licensed Product as a pharmaceutical product in a regulatory jurisdiction.

1.23 “Effective Date” means the date when all the conditions precedent specified in 2.1 have been satisfied.

1.24 “Field” means all therapeutic or preventive indications for brain tumors, including primary brain tumors and brain metastasis.

1.25 "First Commercial Sale" means, with respect to any Licensed Product, the first sale to a Third Party for end use or consumption of such Licensed Product in a country in the Territory by XPH, its Affiliates or sublicensees after receipt of Regulatory Approval in such country or, where Regulatory Approval is not required, then the first sale for end use or consumption of a Licensed Product to a Third Party in that country in the Territory in connection with the nationwide introduction of such Licensed Product in that country in the Territory by XPH, its Affiliates or sublicensees.

1.26 "Generic Competition" shall be deemed to exist for a specific Licensed Product in a particular country as of any date if, during the two (2) immediately preceding Calendar Years, (a) Generic Products have a market share in the applicable country of at least thirty percent (30%) of the then combined unit volume of the applicable Licensed Product and Generic Products, or (b) at least one Generic Product is commercially introduced in such country and the Net Sales by XPH of the applicable Licensed Product in the applicable country decrease by at least thirty percent (30%) with each of (a) and (b) measured as an average taken over such two (2) Calendar Years and compared to the Calendar Year immediately preceding the beginning of such two (2) Calendar Year period.

1.27 "Generic Product" means any pharmaceutical product that is (i) sold by a Third Party that is not a licensee or Sublicensee of XPH or its Affiliates or sublicensees, under a marketing authorization granted by a Regulatory Authority to such Third Party, (ii) contains the Compound as an active pharmaceutical ingredient, and (iii) is approved in reliance on the prior approval of a Licensed Product as determined by the applicable Regulatory Authority in the applicable country.

1.28 "IFRS" means International Financial Reporting Standards as adopted by the International Accounting Standard Board, consistently applied.

1.29 "Improvements" means all inventions and Know-How, patentable or otherwise, made, created, developed, conceived or reduced to practice by or on behalf of a Party and/or any of its Affiliates pursuant to activities relating to or contemplated by this Agreement during the Agreement Term, that are necessary or useful for the Development or Commercialization of the Compound or Licensed Product for use in the Field including developments in the manufacture, formulation, ingredients, preparation, presentation, means of delivery or administration, dosage, indication, methods of use or packaging and/or sale of the Compound or Licensed Product.

1.30 "IND" means an Investigational New Drug application, this carries the same meaning in each of the countries in the Territory similar to what is described in the United States in 21 C.F.R. Section 312.23, obtained for purposes of conducting Clinical Studies in accordance with the requirements of the Act and the regulations promulgated thereunder, including all supplements and amendments thereto relating to the use of the Compound or Licensed Product in the Field.

1.31 "Insurance" has the meaning set forth in Section 10.6(a).

1.32 "Intellectual Property" means Patent Rights, Know-How, Copyrights and Trademarks collectively, that are necessary or useful for the Development or Commercialization of the Compound or Licensed Products, including any Improvements thereto.

1.33 "Kinex Indemnified Parties" has the meaning set forth in Section 10.1.

1.34 "Kinex Intellectual Property" means the Kinex Patent Rights, Kinex Know-How and other Intellectual Property owned or Controlled by Kinex or any of its Affiliates.

1.35 "Kinex Know-How" means all Know-How that are owned or Controlled by Kinex or any of its Affiliates.

1.36 "Kinex Patent Rights" means all Patent Rights that are owned or Controlled by Kinex or any of its Affiliates, including the Patent Rights listed in Schedule 1.2 and as provided in Section 7.1.

1.37 "Know-How" means all proprietary information and technology, including trade secret information, developments, discoveries, methods, techniques, formulations, Data, and other information, whether or not patentable, that are necessary or useful for the Development or Commercialization of the Compound or Licensed Product, or any Improvement thereto, in the Field.

1.38 "Law(s)" means all laws, statutes, rules, regulations, ordinances and other pronouncements having the binding effect of law of any governmental authority.

1.39 "Licensed Product(s)" means any pharmaceutical preparation in final form (or, where the context so indicates, the form under development) that contain the Compound as an active pharmaceutical ingredient for use in the Territory.

1.40 "Losses" means any and all damages, awards, deficiencies, settlement amounts, defaults, assessments, fines, dues, penalties (including penalties imposed by any governmental authority), costs, fees, liabilities, obligations, taxes, liens, losses, lost profits and expenses (including court costs, interest and reasonable fees of attorneys, accountants and other experts) awarded or otherwise paid or payable to Third Parties.

1.41 "NDA" means a new drug application in any of the countries in the Territory similar to the NDA submitted to the FDA to obtain approval for the marketing of a Licensed Product in the United States, together with all subsequent submissions, supplements and amendments thereto.

1.42 "Net Sales" means the gross sales amount of Licensed Products invoiced to Third Parties by XPH, its Affiliates and sublicensees, less the following deductions (to the extent included in such gross sales amount):

(a) quantity and/or cash discounts therefor;

(b) customs, duties, sales and similar taxes;

(c) amounts allowed or credited by reason of rejections, return of goods (including as a result of recalls, market withdrawals and other corrective actions), and retroactive price reductions or allowances specifically identifiable as relating to a Licensed Product including allowances and credits related to inventory management or similar agreements with wholesalers;

(d) amounts incurred resulting from government (or any agency thereof) mandated rebate programs in the Territory;

(e) Third Party rebates, patient discount programs, administrative fees and chargebacks or similar price concessions related to the sale of a Licensed Product;

(f) bad debt actually included on XPH's financial statements, provided that XPH has made Commercially Reasonable Efforts to collect on such debts;

(g) the expenses for insurance, freight, packing, shipping and transportation;

(h) commissions paid to agents or distributors to secure tender offers or other purchases by local authorities; and

(i) as agreed by the Parties, such agreement not to be unreasonably withheld, any other specifically identifiable amounts included in a Licensed Product's gross sales amount that were or ultimately will be credited and that are similar to those listed above, all in accordance with IFRS. All such discounts, allowances, credits, rebates and other deductions shall be fairly and equitably allocated to the Licensed Product, and, to the extent applicable, other products or services of XPH, its Affiliates or sublicensees such that the Licensed Products do not bear a disproportionate portion of such deductions. For the avoidance of doubt, Net Sales shall not include sales by XPH to its Affiliates or sublicensees for resale; provided that, if XPH sells a Licensed Product to an Affiliate or sublicensee for resale, then the Net Sales calculation shall based on the higher of (i) the amount invoiced XPH to such Affiliate or sublicensee or (ii) the amount invoiced by such Affiliate or sublicensee to the Third Parties on the resale of such Licensed Product. For purposes of this Agreement, "sale" shall not include transfers or other distributions or dispositions of a Licensed Product, at no charge, for regulatory purposes, clinical trials, samples, free products or in connection with patient assistance programs or other charitable purposes or to physicians or hospitals for promotional purposes. A Licensed Product shall be considered "sold" only when billed or invoiced.

1.43 "Ongoing Clinical Studies" means Clinical Studies with enrolled patients that are in the process of being conducted. For the avoidance of doubt, this does not include Clinical Studies where no patient dosing has occurred.

1.44 "Party" means Kinex or XPH, as the context may require.

1.45 "Parties' Patent Rights" has the meaning set forth in Section 7.3(a).

1.46 "Patent Rights" means any patents, patent applications, certificates of invention, or applications for certificates of invention and any supplemental protection certificates, together with any extensions, registrations, confirmations, reissues, substitutions, divisions, continuations or continuations-in-part, reexaminations or renewals thereof that claim or cover the Compound, Licensed Product or any Improvement, including methods of development, manufacture, formulation, preparation, presentation, means of delivery or administration, dosage, packaging, sale or use thereof

1.47 "Phase I Clinical Study(ies)" means a Clinical Study that is intended to initially evaluate the safety or pharmacological effect of a Licensed Product in the Field in subjects or that would otherwise satisfy requirements of 21 CFR 312.2(a), or its foreign equivalent.

1.48 "Phase II Clinical Study(ies)" means a Clinical Study that is intended to initially evaluate the effectiveness of a Licensed Product in the Field in subjects or that would otherwise satisfy requirements of 21 CFR 312.21(b), or its foreign equivalent.

1.49 "Phase III Clinical Study(ies)" means a pivotal Clinical Study, the results of which could be used to establish safety and efficacy of a Licensed Product in the Field as a basis for Regulatory Approval or that would otherwise satisfy requirements of 21 CFR 312.21(c), or its foreign equivalent.

1.50 "Prime Rate" means the rate announced from time to time by HSBC Bank, N.A. as its "prime rate" in New York, New York USA which is the base rate upon which other rates charged at such bank are based, and is the best rate available to premium customers at such bank.

1.51 "Product Label(ing)" shall have the same meaning as defined in the applicable law in the respective country in the Territory.

1.52 "Proprietary Information" means any and all scientific, clinical, technological, regulatory, marketing, financial and commercial information or data, whether communicated in writing, orally or by any other means, which is owned and under the protection of one Party and is provided by that Party to the other Party in connection with this Agreement, and shall include Kinex Know-How and XPH Know-How, as applicable, and the Data.

1.53 "Regulatory Approval" means approval by the relevant Regulatory Authority of an NDA or other Drug Approval Application, health registration, common technical document, regulatory submission, notice of compliance and any other license or permit required to be approved for the supply, manufacture, use, storage, distribution, import, export, transport, promotion, marketing and sale of a Licensed Product in a country, region or other regulatory jurisdiction.

1.54 "Regulatory Authority" means any governmental authority in a country, region or other regulatory jurisdiction that regulates the supply, manufacture, use, storage, distribution, import, export, transport, promotion, marketing and sale of a Licensed Product.

1.55 "SEC" means the United States Securities and Exchange Commission and any successor agency having substantially the same functions.

1.56 "SFDA" means the Regulatory Authority in China.

1.57 "Substantial Level Generic Competition" shall be deemed to exist for a Licensed Product in a particular country as of any date if, during the two (2) immediately preceding Calendar Years, (a) Generic Products have a market share in the applicable country of at least sixty percent (60%) of the then combined unit volume of the applicable Licensed Product and Generic Products, or (b) at least one Generic Product is commercially introduced in such country and Net Sales of the applicable Licensed Product by XPH in the applicable country decrease by at least sixty percent (60%) with each of (a) and (b) measured as an average taken over such two (2) Calendar Years and compared to the Calendar Year immediately preceding the beginning of such two (2) Calendar Year period.

1.58 "Territory" means the following designated countries only: Greater China (including Mainland China, Taiwan, and Hong Kong) and Singapore. All other countries are expressly excluded and retained by Kinex. When referring to Clinical Studies, any one of the countries or regions within the Territory shall be considered as within the Territory.

1.59 "Third Party(ies)" means a person or entity who or which is neither a Party nor an Affiliate of a Party.

1.60 "Trademark" means the trademark(s) for which either Party has sought registration and all related service marks, domain names and other trademark related rights that are necessary or useful for the Development or Commercialization of the Licensed Products in the Field.

1.61 "Valid Claim" means any claim in an active patent application or issued in an unexpired patent which has not been held unenforceable, unpatentable or invalid by a decision of a court or other governmental agency of competent jurisdiction following exhaustion of all possible appeal processes, and which has not been admitted to be invalid or unenforceable through reissue, reexamination or disclaimer and has not been terminated for failure to pay maintenance fees.

1.62 "XPH Indemnified Parties" has the meaning set forth in Section 10.1.

1.63 "XPH Know-How" means all Know-How that are owned or Controlled by XPH as of the Effective Date and during the Agreement Term.

1.64 "XPH Patent Rights" means all Patent Rights that are owned or Controlled by XPH as of the Effective Date and during the Agreement Term, including as provided in Section 7.1.

ARTICLE 2

CONDITIONS PRECEDENT

2.1 This Agreement is effective when executed and (a) Kinex will transfer all technical documents that are currently available for US IND filing for XPH's assessment, and (b) that XPH will have a chance to assess the intellectual property position of the Compound (as detailed in Schedule 2). XPH will have 90 calendar days to evaluate both of these aspects after receiving the documents. If the assessment of either the scientific merits or intellectual property is found to be unsatisfactory by XPH, this Agreement will be terminated immediately. XPH is going to engage a CRO to access a path for Chinese SFDA IND submission and if the CRO issues a report within 90 calendar days that the Compound will not be accepted by Chinese SFDA despite best efforts, Kinex will reimburse the upfront payment in Section 5.1. XPH also will access the patent application of ICX02 in China and if there are major issues with regards to the issuance of patent protection in China (as assessed within 90 calendar days), Kinex will also reimburse the upfront payment in Article 5.1.

ARTICLE 3

GRANT OF RIGHTS

3.1 Grants by Kinex. Subject to the terms and conditions of this Agreement, Kinex hereby grants to XPH an exclusive right and license throughout the Territory (and with the right to grant sublicenses with the consent of Kinex which will not be unreasonably withheld) in and to the Kinex Intellectual Property, to develop, label, package, import, export, promote, distribute, make, use, sell, offer for sale, register, commercialize and otherwise exploit the Licensed Product(s) in the Field and a non-exclusive right to manufacture the Compound in the Territory but solely for use in the Licensed Products; provided, however, that, notwithstanding the exclusive rights granted to XPH hereunder, Kinex shall retain the right to use the Kinex Intellectual Property in the Territory other than for the promotion, distribution, sale, offer for sale, registration, making, importing/exporting or commercialization of Licensed Product(s) in the Field. Any Affiliates of XPH exercising any rights of XPH under this Agreement shall be located within the Territory; provided, however, that XPH may use Affiliates or Third Parties located outside the Territory to assist in the development of Licensed Products with the prior written consent of Kinex. With respect to sales to Third Party distributors or other parties purchasing Licensed Product for resale, XPH shall use Commercially Reasonable Efforts to restrict such resales to within the Territory, including termination of sales to such parties if required by Kinex.

3.2 Retained Rights; No Implied Licenses. All rights not specifically granted to XPH under this Agreement are reserved and retained by Kinex. Nothing in this Agreement shall be deemed to constitute the grant of any license or other right to XPH, to or in respect of any product, patent, trademark, Proprietary Information, trade secret or other data or any other Intellectual Property of the other Party, except as set forth under this Agreement (including, but not limited to, the Mimetica and Opal discovery platforms or any compound or molecule in the Kinex libraries other than the Compound). Kinex expressly reserves and retains the right to develop or manufacture Licensed Products within the Territory for sale outside the Territory.

3.3 Substitute Compound. If XPH abandons the Compound for Commercialization and Development in the Territory, Kinex upon the payment of US$*** by XPH to Kinex, shall select an alternative compound from the same chemical class and such alternative compound shall be added to the definition of "Compound" for all purposes under this Agreement ("Alternative Compound"). If Kinex has also abandoned the Compound for Commercialization and Development in the Field outside the Territory and is developing a substitute compound in the Field outside the Territory, the Alternative Compound shall be the substitute compound currently under Development and Commercialization by Kinex in the Field outside the Territory. Kinex shall transfer all Data relating to the Alternative Compound to XPH. XPH shall be responsible for all costs associated with the Development and Commercialization of the Alternative Compound in the Territory including preclinical and toxicology studies necessary to permit the filing of an IND with SFDA for the Alternative Compound.

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ARTICLE 4

INFORMATION TRANSFER; DEVELOPMENT AND COMMERCIALIZATION;

REGULATORY MATTERS

4.1 Information and Transfer of Kinex Intellectual Property.

(a) As soon as practicable, but in no event later than thirty (30) days after the Parties sign this Agreement, Kinex shall disclose and deliver to XPH electronic copies (or, upon XPH's request, copy of the originals) of all Data for continued Development and Commercialization in the Territory to be used for XPH's Chinese SFDA IND application which is available to Kinex at the time (including without limitation to the all pre-clinical and manufacturing data available to Kinex that is related to the Compound at the time) and any registration documents of the Compound and its Licensed products, and the latest Kinex Intellectual Property Rights. In addition to the foregoing, Kinex shall provide XPH with such assistance as XPH may reasonably request (at XPH's cost and expenses) in connection with the foregoing disclosures, including making available at their place of employment (or such other location as the Parties may mutually agree upon) the assistance of such persons that were involved with the Kinex Intellectual Property.

(b) During the term of this Agreement, Kinex shall, upon the request of XPH, provide XPH with any Data which is available to Kinex and is required for the application for the IND with SFDA within 60 calendar days. Failure to comply with this provision by Kinex will entitle XPH to terminate this Agreement and to require Kinex to repay all payment which has been made by XPH.

4.2 Development and Commercialization.

(a) General. XPH shall be responsible for and shall itself, or through its Affiliates or sublicensees, conduct Development and Commercialization in the Territory in the Field during the Agreement Term as described by this Agreement. Within 60 days after the Effective Date, XPH shall prepare a draft plan and budget (in English) for Development and Commercialization in each of the countries within the Territory and submit such draft plan to the Development and Commercialization Steering Committee (as defined in Section 4.4) which will agree on and oversee the plan for Development and Commercialization during the Agreement Term. If XPH fails to (i) prepare the draft plan and budget within 60 days of the Effective Date, (ii) file an IND with SFDA by June 30, 2013, (iii) commence a Phase I Clinical Study with at least 40 tumor patients within 6 months after obtaining the approval of SFDA to initiate Phase I Clinical Studies, (iv) commence a Phase II Clinical Study with at least 120 brain tumor patients within six (6) months after SFDA endorses the study report for the Phase I Clinical Study and approves the commencement of the Phase II Clinical study by XPH, (v) commence at least a Phase III Registration Clinical Study that has been agreed upon with Chinese SFDA within six (6) months of Completion of the Phase II Clinical Study and approval of SFDA on the commencement of a Phase III Registration Clinical Study by XPH, (vi) file a New Drug Application for Regulatory Approval to Chinese SFDA within nine (9) months of Completion of the Phase III Study, (vii) First Commercial Sale of Licensed Product in each country in the Territory within 60 days of the Regulatory Approval in such country in the Territory, all rights and licenses under this Agreement shall immediately terminate, unless (i) Commercially Reasonable Efforts has been made by XPH; or, (ii) Kinex's failure to comply with Article 4.1 (information and transfer of Kinex Intellectual Property) and 4.2 (d) (Referencing Data) is attributable to such failure by XPH; or, iii) such failure results from the action on inaction of SFDA; provided, however, Kinex shall grant a six month extension on any of the foregoing timelines at the reasonable request of XPH prior to any termination of this Agreement. Further, Kinex shall grant a second six month extension of any of the foregoing timelines.

(b) Summary Reports. Upon Kinex's sixty (60) day prior written request, made within thirty (30) days of the end of the first Calendar Year following the Effective Date and each year thereafter during the Agreement Term, XPH shall provide Kinex with a written summary of Development and Commercialization undertaken on a country by country basis during the then current Calendar Year consistent with written reports issued by XPH in the ordinary course of its business.

(c) Clinical Studies. XPH will be responsible for, and conduct and administer at its sole cost and expense, all the studies required for Regulatory Approval in each of countries within the Territory. Specifically, XPH will:

(i) Submit an IND to SFDA for phase 1 clinical studies by June 30, 2013;

(ii) Conduct Phase 1 Clinical Study in the Territory with the study to be commenced within 6 months after obtaining the approval of SFDA to initiate Phase 1 Clinical Studies;

(iii) Conduct studies that are required to support Phase II Clinical Study(ies) as well as commence Phase II Clinical Study for brain tumors within the Territory within six months after SFDA endorses the study report for the Phase I Clinical Study and approves the commencement of Phase II Study;

(iv) Conduct Clinical Studies in the Territory in support of the clinical strategy for the appropriate indications as identified in the Development Plan approved by the Development and Commercialization Steering Committee; and

(v) Conduct and/or participate in the global Phase III Studies in such a manner in conjunction with Kinex that will support the approval of Licensed Product in each of the countries within the Territory.

All study reports will be filed to regulatory authorities within 6 months of the completion of the applicable Clinical Study

(d) Referencing Data. The Data and results of any Clinical Studies or other studies conducted by a Party or its ex-Territory partners shall be made available to the other Party for referencing at no cost to the requesting Party for regulatory filing purposes, and each party hereby grants to the other Party a right of reference to use such Data for the Development and Commercialization of the Compound and Licensed Products, provided, however, that with respect to the right granted to XPH, such right shall be limited to the Development and Commercialization of the Compound and the Licensed Products in the Field in the Territory.

(e) Payment of Development and Commercialization Costs. XPH shall be responsible for all costs associated with Development and Commercialization of Licensed Products in the Territory. Notwithstanding the generality of the foregoing, XPH shall reimburse Kinex for the direct costs incurred by Kinex in carrying out any Development within the Territory that was authorized or approved in writing in advance by XPH.

(f) Records. Under this Agreement, XPH and Kinex shall maintain records, in sufficient detail and in good scientific manner appropriate for patent and regulatory purposes and in accordance with good industry practice, which shall be complete and accurate in all material respects and shall fully and properly reflect all work done and results achieved, including all Know-How and including individual case report forms, in the form required by applicable Laws.

(g) Promotional Materials and Activities. XPH shall create and develop the advertising and promotional materials for the Licensed Products in the Territory with the written approval of Kinex (which shall not be unreasonably withheld) with respect to all such materials. As holder of the Regulatory Approvals in the Territory, XPH shall be responsible for all submissions and interactions with the Regulatory Authorities regarding approval of all Licensed Product-related promotional materials that require Regulatory Approval.

(h) Ownership of Copyrights and Trademarks. Kinex retains all rights to establish a global brand for each Licensed Product and shall own all Copyrights and Trademarks for the Licensed Product as specified in 7.1 (a) (i) in the Territory. XPH shall be responsible for searching, clearing and filing applications for registration of all such Copyrights, Trademarks and trade dress at its sole cost in accordance with Kinex's global branding strategy. Kinex shall execute all documents and take all actions as are reasonably requested by XPH with respect to such filings and registrations.

(i) Sales of Licensed Products. All sales of Licensed Products shall be made, recorded, invoiced and collected by XPH. All terms regarding Licensed Product sales, including terms respecting credit, pricing, cash discounts, rebates, chargebacks, bad debt write-offs, and other fees and charges, and returns and allowances shall be set solely by XPH.

(j) Compliance with Laws. XPH shall in all respects comply with all applicable laws and applicable guidelines concerning the advertising, sales and marketing of prescription drug products in Commercializing Licensed Products in the Territory under this Agreement and (b) XPH shall obligate any sublicensees that it or its Affiliates may engage with respect to Licensed Products to do the same; to bring any non-compliance therewith (should it ever occur) by any of the foregoing entities to XPH's attention; and to promptly remedy any such non-compliance. XPH and its Affiliates shall maintain such procedures throughout the Agreement Term and shall promptly notify Kinex in writing with respect to any material non-compliance regarding Commercialization of Licensed Products.

(k) Kinex shall also arrange, at XPH'S expense, required technical training to XPH in the use, manufacture and development of the Compound and in expediting the Development and Commercialization of the Compound and Licensed Product in the Territory. The parties shall arrange the training at mutually agreed terms from time to time;

(l) Kinex shall, upon the request of XPH and at the expense of XPH, assist XPH in the preparation and filing of all registration in XPH Licensed Territory with respect to the Development and Commercialization of the Licensed Product to the extent permitted or made necessary by statute, regulation or government agency, including, without limitation, executing and delivering all documents in connection therewith; provided that XPH shall reimburse Kinex for reasonable out-of-pocket costs and other expenses incurred by Kinex in connection with such cooperation.

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4.3 Regulatory Matters.

(a) XPH Responsibility.

From and after the Effective Date:

(i) XPH shall have sole authority and responsibility for the timely preparation, filing and prosecution of all filings, submissions, authorizations or approvals with Regulatory Authorities in the Territory, and shall own and control all such filings, submissions, authorizations and approvals, including any IND, NDA or other Drug Approval Application in the Territory. XPH shall provide copies of all such filings, submissions, authorizations and approvals upon reasonable request from Kinex, at Kinex's sole cost and expense.

(ii) XPH shall be the primary contact with each Regulatory Authority in the Territory and shall be solely responsible for all communications with each Regulatory Authority that relate to any IND, NDA, or other Drug Approval Application in the Territory, provided, however, that upon the reasonable request of XPH, Kinex shall provide appropriate personnel to participate in discussions with a Regulatory Authority regarding the regulatory review process and shall assist and consult with XPH in applying for Regulatory Approval at XPH's cost and expense.

(iii) From and after receipt of each Regulatory Approval, XPH shall have exclusive authority and responsibility to submit all reports or amendments necessary to maintain Regulatory Approvals and to seek revisions of the conditions of each such Regulatory Approval in the Territory and shall keep Kinex promptly informed of any such actions. XPH shall have sole authority and responsibility to seek and/or obtain any necessary approvals of any Product Label, or prescribing information, package inserts, monographs and packaging used in connection with a Licensed Product, as well as promotional material used in connection with a Licensed Product, and for determining whether the same requires Regulatory Approval in the Territory.

(b) Regulatory Cooperation. Each Party is responsible concerning adverse drug reactions, safety information and compliance with regulatory requirements. XPH is responsible for providing any such data to Kinex that is required by the United States Regulatory Authority. Kinex is also responsible for providing any such data to XPH that is required by the Regulatory Authority in the Territory. The Parties hereby agree that they will each make Commercially Reasonable Efforts in coordinating their respective regulatory, Development and Commercialization efforts.

(c) Pharmacovigilence. During the Agreement Term, each of the Parties will notify appropriate Regulatory Authorities in accordance with applicable law, and the other Party, promptly after receipt of information with respect to any serious adverse event (as defined by the ICH Harmonized Tripartite Guideline on Clinical Safety Data Management), directly or indirectly attributable to the use or application of any Compound or Licensed Product.

(d) Product Recalls. If any Regulatory Authority having jurisdiction in the Territory requires or reasonably requests to recall a Licensed Product due to a defect in the manufacture, processing, packaging or labeling of such Licensed Product or for any other reason whatsoever, XPH shall immediately notify Kinex. XPH shall have the sole right and responsibility, at its expense, to initiate all recall procedures required or requested by any such Regulatory Agency. XPH shall have be responsible, at its expense, for carrying out any such recall as expeditiously as possible and in such a way as to cause the least disruption to the sales of the Licensed Product and to preserve the goodwill and reputation attached to the Licensed Product and to the names of XPH and Kinex. XPH agrees to maintain the appropriate record and procedures to permit the recall of the Licensed Product.

4.4 Appointment and Administration of Development and Commercialization Steering Committee for the Territory

(a) As soon as practicable after the execution of this Agreement and in no event later than thirty (30) days after the Effective Date, the Parties will establish a four (4) person steering committee to oversee and review the Development and Commercialization of the Products in the Territory, which will include two (2) representatives of each of XPH and Kinex (the ***Development and Commercialization Steering Committee***) and will be chaired by one of the representatives of XPH. All actions, decisions and approvals of the Development and Commercialization Steering Committee shall be unanimous. One member appointed by each Party will be a senior officer of such Party who is either (i) responsible for product development or (ii) has substantial experience in product development for similar products who is acceptable to the other Party. Each Party, at its sole discretion, may at any time during the Term of this Agreement replace a member it has the right to designate upon prior written notice to the other Party. Each Party will use reasonable efforts to cause its respective representatives to attend all meetings of the Development and Commercialization Steering Committee. Each Party will bear the travel and out-of-pocket expenses incurred by its members or representatives in connection with the Development and Commercialization Steering Committee's meetings.

(b) The Development and Commercialization Steering Committee will meet at least once every Calendar Quarter, or more or less frequently as the Parties mutually deem appropriate, on dates and at times and places as agreed by the Parties. The Development and Commercialization Steering Committee may also convene or be polled or consulted from time to time by means of telecommunications, video conferences or correspondence, as deemed by the Parties to be necessary or appropriate.

(c) If there is a disagreement within the Development and Commercialization Steering Committee, the members of the Development and Commercialization Steering Committee shall promptly present the disagreement to the executive of each of XPH and Kinex who has the principal responsibility for his respective company's work under this Agreement. Once informed, such executives shall meet to discuss each party's view and to explain the basis for such disagreement. If such executives are unable to resolve such dispute with thirty (30) days of such meeting, then (a) if the disagreement is within the framework of this Agreement, XPH's decision will be final and binding within the Territory, unless the disagreement is related to regulatory issues in countries outside the Territory or imposes negative impacts Kinex's rights under this Agreement, or (b) if the disagreement is not within the framework of this Agreement and is applicable only to issues in the Territory, then XPH's decision will be final and binding.

(d) The Development Steering and Commercialization Committee will have the authority in the Territory concerning (i) approval and amendment, from time to time, of the plan for Development and Commercialization, (ii) the protocols and indications for Clinical Trials of Licensed Products, (ii) approval of all contracts relating to the Development of Licensed Product, (Hi) the formulation used in respect of Licensed Product, and (iv) contracts relating to the Commercialization of Licensed Product. The approval for the abovementioned issues by the Development Steering and Commercialization Committee shall not be unreasonably withheld.

ARTICLE 5

PAYMENTS AND STATEMENTS

5.1 Milestone Fees. In consideration of the rights granted by Kinex hereunder, XPH shall pay Kinex the following milestone fees, contingent upon the later of i) the occurrence of the specified event and H) XPH has received the approval for making such payment from the applicable foreign exchange authority, with each milestone fee to be paid no more than once with respect to the achievement of such milestone event (but payable the first time when such milestone event is achieved and further XPH has received the approval for making such payment from the applicable foreign exchange authority):

(a)	Transfer of Data to XPH under Section 4.1	US$750,000
(b)	Allowance by the United States Regulatory Authority of an IND application submitted by Kinex for the Compound (if Kinex cannot get US FDA allowance for the IND before December 31, 2012 to initiate Phase I Clinical Study for the Compound, XPH shall have the following options: i) to terminate this contract and the payment in (a) will be reimbursed to XPH; ii) to continue the performance of this Agreement on the terms and conditions which shall be otherwise agreed by the Parties.)	US$750,000
(c)	Completion of a Phase I Clinical Study for the Compound in the United States or China	US$***
(d)	Completion of a Phase II Clinical Study that achieves the primary clinical endpoint set forth in the protocol for an oncology indication	US$***
(e)	Completion of a Phase III Clinical Study that achieves the achieves the primary endpoint set forth in the protocol for an oncology indication	US$***
(f)	Regulatory Approval in any country specified in the Territory	US$***

Each milestone fee shall be deemed earned as of the achievement of the related milestone event and shall be paid by XPH within thirty (30) Business Days after the later of the date when i) the achievement of each milestone event and ii) XPH has received the approval for making such payment from the applicable foreign exchange control authority. XPH will expedite the application for such payment.

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5.2 Equity Investment in Kinex.

In conjunction with the completion of the license agreement, one of the XPH affiliates will also make an equity investment of USD $10 million in Kinex series A Preferred Shares on the same share price as of June 2011 (USD $20 per share). It is agreed upon that US$*** M will be invested within 30 calendar days. XPH will invest the first tranche (USD $*** million) in 30 calendar days with an option to extent by another 30 days if additional regulatory approval is required for the effect of such transaction. If the transaction is not completed within 60 days, Kinex will withdraw the offered stock price and XPH will withdraw its investment.

The completion of the remaining investment transaction will be contingent upon the following conditions:

(a) Article 2.1 is satisfied, and

(b) XPH being satisfied with the due diligence of the private placement memorandum.

This second tranche of investment (USD $*** million) will be made if the contingent conditions given above is satisfied and within 4 months after the execution of this Agreement.

(c) All requisite waivers, consents and approvals from any relevant governments or regulatory authorities or other relevant third parties in connection with such investment transactions contemplated by this article and the effect the obligation of payment by XPH required to be obtained on the part of XPH having been obtained by XPH, which including but not limited to the approval from the following entities:

(i) National Development and Reform Commission;

(ii) the Ministry of Commerce of the People's Republic of China; and

(iii) the State Administration Foreign Exchange of China;

5.3 Royalties.

(a) XPH shall, pursuant to Section 5.4(a), pay to Kinex a royalty of *** percent on annual (Calendar Year) aggregate Net Sales of Licensed Product (annual Net Sales is the aggregated total of all sales in the Territory).

(b) The royalty rates set forth above shall be reduced by forty percent (40%) for a Licensed Product sold in any country in which Generic Competition exists for such Licensed Product; provided, however, that if Substantial Level Generic Competition exists for such Licensed Product in a country, no further royalties shall be payable by XPH to Kinex with respect to such Licensed Product in the subject country.

(c) If XPH sublicensed KX02 to other parties, Kinex will be entitled to 10% of the upfront and milestones that XPH will receive on top of the milestones set forth in this agreement.

5.4 Royalty Reports and Payments.

(a) Royalty Payments. Within sixty (60) days following the end of each Calendar Quarter that royalties are payable by XPH to Kinex, XPH shall submit to Kinex a written report containing, with respect to such Calendar Quarter and for the then-current Calendar Year through the end of such Calendar Quarter, an accounting on a country-by-country basis of gross sales, Net Sales and the royalties payable in accordance with Section 5.2(a) for such Calendar Quarter, with a breakdown of all deductions taken in any such calculations, in accordance with the definition of "Net Sales". Any conversion to United States Dollars shall be calculated in accordance with Section 5.4(c). In the event of any royalty reduction during any Calendar Quarter due to Generic Competition in any country in the Territory, the report for such Calendar Quarter shall also show the basis for the determination of such Generic Competition. Royalties shown to have accrued by each report shall be due and payable on the date such report is due.

(b) Following the expiration of all royalties payable to Kinex on any Licensed Product in a country, XPH shall continue to furnish Kinex a written report on a country-by-country basis for the next four Calendar Quarters following expiration of royalties with respect to such Licensed Product, and shall state the basis for Net Sales then being free of royalty obligations hereunder. XPH shall thereafter have no further obligation to include in a report the Net Sales of such Licensed Product in such country for purposes of the royalty calculation for any Calendar Quarter. This obligation shall survive the termination or expiration of this Agreement in any country.

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(c) Each Party shall keep and shall require its Affiliates or sublicensees to keep complete and accurate records in sufficient detail to permit accurate determination of all amounts necessary for calculation and verification of all payment obligations set forth in this Article 4 for a period of 36 months from the end of the relevant Calendar Quarter.

5.5 General Payment Provisions.

(a) Payment Method. All payments under this Agreement shall be made in United States Dollars by bank wire transfer in immediately available funds to an account designated by Kinex.

(b) Withholding Taxes. XPH shall act as the tax agent of Kinex and make all required withholding or other tax payments to, and file all appropriate tax form with, the Chinese taxing authority(ies). XPH may deduct the amount of any taxes imposed on Kinex which are required to be withheld or collected by XPH, its Affiliates or sublicensees under the laws, rules or regulations of any country on amounts owing from XPH to Kinex hereunder. Any such taxes required to be withheld or collected shall be an expense of Kinex.

Kinex shall provide XPH any tax forms that may be reasonably necessary in order for XPH to not withhold tax or to withhold tax at a reduced rate and XPH shall apply the reduced rate of withholding, or dispense with withholding, as the case may be. Each Party shall provide the other with reasonable assistance to enable the recovery, as permitted by applicable laws, of withholding taxes, value added taxes, and similar obligations resulting from payments made under this Agreement, such recovery to be for the benefit of the Party bearing such withholding tax or value added tax. To the extent XPH, its Affiliates or sublicensees pay such withholding taxes to the appropriate governmental authority on behalf of Kinex, XPH shall promptly deliver to Kinex proof of payment of such taxes.

(c) Currency Exchange. For purposes of computing royalties on Net Sales in any country outside the United States, the Net Sales shall be converted to United States Dollars using the year-to-date average rate of exchange for United States Dollars used by XPH for its internal financial accounting purposes; provided, however, that if for any reason conversion into United States Dollars cannot be made in a country in the Territory, then notwithstanding the provisions of Section 4.4(a), payment may be made in the currency of such country by deposit in the name of Kinex in a bank account designated by Kinex in such country.

(d) Except as otherwise defined herein, all financial calculations by either Party under this Agreement shall be calculated in accordance with IFRS. In addition, all calculations shall give pro rata effect to and shall proportionally adjust (by giving effect to the number of applicable days in such Calendar Quarter) (i) for any Calendar Quarter that is shorter than a standard Calendar Quarter or any Calendar Year that is shorter than four consecutive full Calendar Quarters, or (ii) as a result of a determination, in accordance with the terms of this Agreement, that the first or last day of such Calendar Quarter (including as a result of termination of this Agreement) shall be deemed other than the actual first or last day of such Calendar Quarter, or that the first or last day of such Calendar Year shall be deemed other than the actual first or last day of such Calendar Year.

5.6 Audits. Upon the written request of Kinex, XPH shall permit an independent certified public accounting film of recognized standing, selected by Kinex and reasonably acceptable to XPH (provided that such accounting firm shall not be retained or compensated on a contingency basis and shall have entered into a confidentiality agreement with XPH in form and substance reasonably satisfactory to XPH), to have access not more than once in any Calendar Year, during normal business hours, to such of the records of XPH as may be reasonably necessary to verify the accuracy of the reports under Section 5.3 hereof for any year ending not more than twenty-four (24) months prior to the date of such request. The accounting firm shall disclose to Kinex whether the reports are correct or incorrect, the specific details concerning any discrepancies (including the accuracy of the calculation of Net Sales and the resulting effect of such calculations on the amounts payable by XPH under this Agreement) and such other information that should properly be contained in a report required under this Agreement (the “Audit Report”)

(a) If such accounting firm concludes that additional amounts were owed during such year, and XPH agrees with such conclusion, then the XPH shall pay the additional payments, together with interest at the Prime Rate on the amount of such additional payments, within thirty (30) days of the date Kinex delivers the Audit Report to XPH. If such accounting firm concludes that amounts were overpaid by XPH during such period, Kinex shall repay XPH the amount of such overpayment, together with interest at the Prime Rate on the amount of such overpayment, within thirty (30) days of the date Kinex delivers the Audit Report to XPH. The fees charged by such accounting firm shall be paid by Kinex; provided, however, that if an error in favor of Kinex of more than five percent (5%) of the payments due hereunder for the period being reviewed is discovered, then the fees and expenses of the accounting firm shall be paid by XPH.

(b) Upon the expiration of twenty-four (24) months following the end of any year for which XPH or Kinex has made payment in full of amounts payable with respect to such year, and in the absence of negligence or willful misconduct of XPH or Kinex or a contrary finding by an accounting firm pursuant to Section 5.5(a), such calculation shall be binding and conclusive upon XPH or Kinex, and XPH or Kinex, as applicable, shall be released from any liability or accountability with respect to royalties or other payments for such year.

ARTICLE 6

REPRESENTATIONS AND WARRANTIES

6.1 General Representations. Each Party hereby represents and warrants to the other Party as follows:

(a) Such Party is a corporation duly organized, validly existing and is in good standing under the laws of the jurisdiction of its incorporation, is qualified to do business and is in good standing as a foreign corporation in each jurisdiction in which the conduct of its business or the ownership of its properties requires such qualification and failure to have such would prevent it from performing its obligations under this Agreement;

(b) The execution, delivery and performance by such Party of this Agreement has been duly authorized by all necessary corporate action and do not and will not (i) violate any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to it or any provision of its charter or bylaws; or (ii) conflict with or constitute a default under any other agreement to which such Party is a party;

(c) This Agreement has been duly executed and is a legal, valid and binding obligation of such Party, enforceable against it in accordance with the terms and conditions hereof, except as enforceability may be limited by (i) any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditor's rights generally, or (ii) general principles of equity, whether considered in a proceeding in equity or at law;

(d) Such Party is not under any obligation to any person or entity, contractual or otherwise, that is in conflict with the terms of this Agreement, nor shall such Party undertake any such obligation during the Agreement Term;

(e) Such Party has obtained all authorizations, consents and approvals, governmental or otherwise, necessary for the execution and delivery of this Agreement, and to otherwise perform such Party's obligations under this Agreement;

(f) Neither Party, nor any of its Affiliates, are a party to, or are otherwise bound by, any oral or written contract that will result in any person or entity obtaining any interest in, or that would give to any Third Party any right to assert any claim in or with respect to, any of such Party's or the other Party's rights under this Agreement; and

(g) Such Party shall perform its obligations hereunder in accordance with all applicable Laws.

6.2 Additional Representations and Warranties of Kinex. Kinex represents and warrants to XPH that:

(a) As of the Effective Date in the Territory, to the knowledge of Kinex, (i) there is no Third Party infringement of any of the Kinex Intellectual Property; and (ii) the Kinex Intellectual Property is in full force where filed; (iii) the Kinex Patent Rights where filed are not subject to any pending or threatened re-examination, re-issue, opposition, interference, challenge, litigation proceeding or other claim, and (iv) Kinex has only filed or prosecuted patent applications with respect to the Kinex Intellectual Property in the countries in the Territory as set forth on Schedule 1.2 to this Agreement;

(b) To the knowledge of Kinex, Kinex has not committed any act, or omitted to commit any act, that may cause the Kinex Patent Rights where filed to expire prematurely or be declared invalid or unenforceable, or that stops Kinex from enforcing the Kinex Patent Rights where filed against any Third Party;

(c) As of the Effective Date in the Territory, (i) Kinex has the right to use and disclose and to enable XPH to use and disclose (in each case under appropriate conditions of confidentiality) the Kinex Know-How; and (ii) the Kinex Intellectual Property is not subject to any encumbrance, lien, license or claim of ownership by any Third Party that would conflict with the terms of this Agreement; and

(d) At no time during the Agreement Term shall Kinex assign, transfer, encumber or grant rights in or with respect to the Kinex Intellectual Property inconsistent with the rights granted to XPH under this Agreement.

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6.3 Additional Representations and Warranties of XPH. XPH represents and warrants to Kinex that:

(a) At no time during the Agreement Tenn shall XPH assign, transfer, encumber or grant rights in or with respect to the XPH Intellectual Property inconsistent with the rights granted to Kinex under this Agreement including under Section 9.3(d).

ARTICLE 7

PATENT MATTERS

7.1 Ownership of Inventions.

(a) Except as otherwise provided in and subject to the terms of this Agreement, as between the Parties:

(i) Kinex shall have and retain all right, title and interest in or Control over, as applicable, all Intellectual Property (and Patent Rights arising thereunder) (i) existing, owned or Controlled by it on the Effective Date, subject to the licenses and other rights for the specified Territory granted to XPH under this Agreement and (ii) which is discovered, made, first conceived, reduced to practice or generated as a result of Development or otherwise during the Agreement Term solely by Kinex employees, agents, or other persons acting under or pursuant to its authority.

(ii) XPH shall have and retain all right, title and interest in or Control over all Intellectual Property (and Patent Rights arising thereunder) which is discovered, made, first conceived, reduced to practice or generated under this Agreement as a result of Development or otherwise during the Agreement Term, solely by XPH's employees, agents, or other persons acting under or pursuant to its authority. XPH hereby grants to Kinex a non-exclusive, worldwide (excluding the Territory), royalty free license (including the right to sublicense) in any such Intellectual Property including all XPH Patent Rights and XPH Know-How related to the Compound and the Licensed Product.

(iii) Kinex and XPH shall jointly own all right, title and interest in or Control over all Intellectual Property (and Patent Rights arising thereunder) which is discovered, made, first conceived, reduced to practice or generated under this Agreement in the Territory as a result of Development or otherwise during the Agreement Term jointly by Kinex and XPH employees, agents, or other persons acting under or pursuant to their authority ("Jointly Owned Intellectual Property"). With respect to Jointly Owned Intellectual Property, both Parties shall have the right to use Jointly Owned Intellectual Property within the Territory subject to the terms of this Agreement. Kinex shall have the right to use the Jointly Owned Intellectual Property in all other countries without accounting or payment to XPH.

(b) Employees and Agents. Each of Kinex and XPH shall require all of its and its Affiliates' employees to assign all inventions and corresponding patent applications and that are discovered, made, first conceived, reduced to practice or generated by such employees during the Agreement Term to Kinex or XPH according to the ownership principles described in Section 7.1(a). Each Party shall use Commercially Reasonable Efforts to require any Third Parties working on any Clinical Study or any Development under the Agreement or who receive materials relating to Licensed Product or Know-How from a Party, to assign ownership or grant a sublicenseable exclusive license on a fully paid-up, royalty-free basis to all inventions and corresponding Patent Rights that are developed, made or conceived by such Third Parties during the Agreement Term to Kinex or XPH according to the ownership principles described in Section 7.1(a).

7.2 Maintenance and Prosecution.

(a) Kinex Patent Rights. Kinex shall have the right to file, prosecute and maintain the Kinex Patent Rights in Kinex's name, using patent counsel selected by Kinex and shall be responsible for the payment of all patent prosecution and maintenance costs. Kinex will inform XPH on the patent applications in the Territory. As of the Effective Date, the Kinex Patent Rights in the Territory include only those applications set forth in Schedule 1.2 to this Agreement and Kinex retains the sole right to determine whether to file for additional patents within the Territory. Kinex shall also have the right to file, prosecute and maintain all Jointly Owned Intellectual Property in all countries outside the Territory.

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(b) XPH Patent Rights. XPH shall have the first right to file, prosecute and maintain the XPH Patent Rights in XPH's name, using patent counsel selected by XPH and shall be responsible for the payment of all patent prosecution and maintenance costs. XPH will inform Kinex on the course of patent prosecution or other proceedings and to furnish Kinex, upon request, with copies of office actions received by XPH from the Regulatory Authority in countries outside the Territory concerning XPH Patent Rights. XPH shall also have the first right to file, prosecute and maintain all Jointly Owned Intellectual Property in all countries in the Territory If XPH elects not to file, prosecute or maintain a patent application or patent included in the XPH Patent Rights or the Jointly Owned Intellectual Property, it shall provide Kinex with no less than forty-five (45) days' written advance notice sufficient to avoid any loss or forfeiture, and Kinex shall then have the right, but not the obligation, at its sole expense, to file, prosecute or maintain such Patent Right.

(c) The responsible Party under this Section 7.2 shall solicit the other Party's review of the nature and text of any patent applications within the Territory resulting from Development or otherwise during the Agreement Term that are necessary or useful for the Development or Commercialization of the Licensed Products and important prosecution matters related thereto in reasonably sufficient time prior to the filing thereof, and the responsible Party shall take into account the other Party's reasonable comments related thereto.

Each Party shall execute all documents and take all actions as are reasonably requested by the other Party with respect to any filings and registrations.

7.3 Third Party Infringement.

(a) Each Party shall promptly give the other Party notice of any actual or suspected infringement by a Third Party in the Territory of any patent included in the Kinex Patent Rights or XPH Patent Rights relating to the Compound or Licensed Products (collectively, the "Parties' Patent Rights"), which comes to such Party's attention. In addition, both parties shall promptly give the other party notice of any actual or suspected infringement by a Third Party outside the Territory of any patent included in the Kinex or XPH Patent Rights. The Parties shall thereafter consult and cooperate to determine a course of action, including the commencement of legal action with respect to any infringement within the Territory.

(b) Kinex shall have the first right, either directly or through its Affiliates or licensees, to initiate and prosecute such legal action in the Territory at its own expense and in the name of Kinex and/or XPH, or to control the defense of any declaratory judgment action in the Territory relating to the Parties' Patent Rights, and Kinex shall provide XPH with reasonable notice of any such action it commences and keep XPH reasonably informed of any significant developments in such action. XPH shall render, at Kinex's expense (including reasonable attorneys' fees), all assistance reasonably requested in connection with any action taken by Kinex or to prevent such infringement. However, the control of such action, including whether to initiate any legal proceeding and/or the settlement thereof, shall solely be under the control of Kinex; provided that Kinex shall not settle any such claim or proceeding in a manner that adversely affects XPH's rights under this Agreement or which results in any material monetary payment by or financial loss to XPH, without the prior written consent of XPH, which consent shall not be unreasonably withheld.

(c) If Kinex elects not to initiate and prosecute an infringement or defend a declaratory judgment action in any country in the Territory as provided in Section 7.3(b) within sixty (60) days after having become aware of such potential infringement, then XPH may elect, which election shall be subject to the prior written consent of Kinex which consent shall not be unreasonably withheld to take such action that is reasonably necessary and appropriate to terminate or prevent such infringement, including instituting an infringement proceeding, provided, however, that XPH shall not enter into any settlement or compromise of any claim relating to the Parties' Patent Rights licensed hereunder or which results in any material monetary payment by or financial loss to Kinex, without Kinex's prior written consent, which consent shall not be unreasonably withheld.

(d) Kinex shall have the sole right, either directly or through its Affiliates or licensees to initiate and prosecute any legal action outside the Territory with respect to the Kinex Patent Rights at its own expense or to control the defense of any declaratory judgment action outside the Territory. XPH shall render, at Kinex's expense, all assistance reasonably requested in connection with any action taken by Kinex or to prevent such infringement. However, the control of such action, including whether to initiate any legal proceeding and/or the settlement thereof, shall solely be under the control of Kinex.

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(e) For any legal action or defense contemplated by this Section 7.3, in the event that any Party is unable to initiate, prosecute, or defend such action solely in its own name, the other Party will join such action voluntarily and will execute all documents necessary for the Party to prosecute, defend and maintain such action. In connection with any such action, the Parties will cooperate fully and will provide each other with any information or assistance that either reasonably may request. Any recovery or award obtained by either Party as a result of any action or settlement commenced with respect to infringement within the Territory shall be shared as follows:

(i) the Party that initiated and prosecuted, or maintained the defense of, the action shall recoup all of its costs and expenses (including reasonable attorneys' fees) incurred in connection with the action, whether the recovery is by settlement or otherwise;

(ii) the other Party then shall, to the extent funds remain after payment set forth in subsection (i) has been made, recover its reasonably documented costs and expenses (including reasonable outside attorneys' fees) incurred in connection with the action;

(iii) if Kinex initiated and prosecuted, or maintained the defense of, the action outside the Territory, the amount of any recovery remaining then shall be retained by Kinex; and (iv) if XPH or Kinex initiated and prosecuted, or maintained the defense of, the action in the Territory, the amount of any recovery remaining then shall be shared equally by the parties.

7.4 Third Party Intellectual Property.

(a) In the event that a Party becomes aware of any claim that the development, manufacture, import, use, marketing or sale of Licensed Product hereunder infringes the intellectual property rights of any Third Party in the Territory, such Party shall promptly notify the other Party. The Parties shall thereafter discuss the situation, and to the extent reasonably necessary, attempt to agree on a course of action.

(b) If within ten (10) Business Days the Parties fail to agree upon an appropriate course of action in the Territory, Kinex shall have the first right, but not the obligation, either directly or through its Affiliates or licensees to defend any action in the Territory related to the intellectual property rights of any Third Party or to initiate and prosecute legal action in the Territory related to the intellectual property rights of any Third Party in the name of XPH and/or Kinex. Kinex shall keep XPH reasonably informed as to the progress of any such action. XPH shall render, at its expense, all assistance reasonably requested in connection with any action taken by Kinex. However, the control of such action, including whether to initiate any legal proceeding and/or the settlement thereof, shall solely be under the control of Kinex; provided that Kinex shall not settle any such claim or proceeding in a manner that adversely affects XPH's rights under this Agreement or which results in any material monetary payment by or financial loss to XPH, without XPH's written consent, which consent shall not be unreasonably withheld. Kinex shall pay for all costs and expenses incurred in such defense. In addition, Kinex shall pay all damages awarded or settlement payments made (including future royalty or similar payments) to such Third Party.

(c) If Kinex elects not to defend an infringement action in any country in the Territory as provided in Section 7.4(b), and XPH elects to do so, which election shall be subject to the prior written consent of Kinex which consent shall not be unreasonably withheld, the cost of any agreed-upon course of action, including the costs of any legal action commenced or any infringement action defended, shall be borne solely by XPH, provided, however, that XPH shall not enter into any settlement or compromise of any claim without the prior written consent of Kinex, which consent shall not be unreasonably withheld.

(d) For any such legal action or defense, in the event that any Party is unable to initiate, prosecute, or defend such action solely in its own name, the other Party will join such action voluntarily and will execute all documents necessary for the Party to prosecute, defend and maintain such action. In connection with any such action, the Parties will cooperate fully and will provide each other with any information or assistance that either reasonably may request.

(e) Kinex shall have the sole right, but not the obligation, either directly or through its Affiliates or licensees to defend any action related to the intellectual property rights outside the Territory of any Third Party or to initiate and prosecute legal action outside the Territory related to the intellectual property rights of any Third Party in the name of XPH and/or Kinex. XPH shall render, at its expense, all assistance reasonably requested in connection with any action taken by Kinex. However, the control of such action, including whether to initiate any legal proceeding and/or the settlement thereof, shall solely be under the control of Kinex.

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7.5 Patent Term Extensions. The Parties shall cooperate with each other in obtaining patent term extensions or restorations or supplemental protection certificates or their equivalents in any country in the Territory where applicable and where desired by XPH. Elections with respect to obtaining such extension or supplemental protection certificates shall be made in the same manner and with the same relative priorities between the Parties as is applicable to the prosecution and maintenance of Patent Rights pursuant to Section 7.2.

7.6 Patent Marking. XPH shall mark, and shall require its Affiliates and sublicensees to mark, all Licensed Products sold or distributed pursuant to this Agreement in accordance with the applicable patent statutes or regulations in the country or countries of manufacture and/or sale thereof.

ARTICLE 8

CONFIDENTIALITY AND PUBLICITY

8.1 Non-Disclosure and Non-Use Obligations. All Proprietary Information disclosed by one Party to the other Party hereunder shall be maintained in confidence and shall not be disclosed to any Third Party or used for any purpose except as expressly permitted herein without the prior written consent of the Party that disclosed the Proprietary Information to the other Party during the term of this Agreement and for a period of ten (10) years thereafter. The foregoing non-disclosure and non-use obligations shall not apply to the extent that such Proprietary Information:

(a) is known by the receiving Party at the time of its receipt, and not through a prior disclosure by the disclosing Party, as documented by records;

(b) is or becomes properly in the public domain or knowledge without breach by either Party;

(c) is subsequently disclosed to a receiving Party by a Third Party who may lawfully do so and is not under an obligation of confidentiality to the disclosing Party; or

(d) is developed by the receiving Party independently of Proprietary Information received from the disclosing Party, as documented by contemporary written records.

8.2 Permitted Disclosure of Proprietary Information. Notwithstanding Section 8.1, a Party receiving Proprietary Information of another Party may disclose such Proprietary Information:

(a) to governmental or other regulatory agencies in order to obtain patents pursuant to this Agreement, or to gain approval to conduct Clinical Studies or to market Licensed Product, but such disclosure may be only to the extent reasonably necessary to obtain such patents or authorizations and in accordance with the terms of this Agreement or as otherwise requested by the Regulatory Authorities;

(b) by XPH to its agents, consultants, sublicensees or Affiliates in connection with the Development or Commercialization, or to otherwise enable XPH to fulfill its obligations and responsibilities under this Agreement, on the condition that such entities agree to be bound by confidentiality obligations consistent with this Agreement; or

(c) if required to be disclosed by law or court order, provided that notice is promptly delivered to the non-disclosing Party in order to provide an opportunity to challenge or limit the disclosure obligations.

(d) Certain Disclosures. Except as set forth in this Agreement or as required by law, neither Party shall make any press release or other public announcement or other public disclosure to a Third Party concerning the existence of or terms of this Agreement, the subject matter of this Agreement or the activities contemplated hereunder, without the prior written consent of the other Party, which consent shall include agreement upon the nature and text of such release, announcement or other disclosure and shall not be unreasonably withheld or delayed. Each Party agrees to provide to the other Party a copy of any such press release or other public announcement or disclosure as soon as reasonably practicable under the circumstances prior to its scheduled release. Each Party shall have the right to expeditiously (but in any event within forty-eight (48) hours) review and recommend changes to any such press release or other public announcement or disclosure; provided, however, that such right of review and recommendation shall only apply for the first time that specific information is to be disclosed, and shall not apply to the subsequent disclosure of substantially similar information that has previously been disclosed unless there have been material developments relating to Licensed Product since the date of the previous disclosure; provided, further, that each Party shall provide to the other Party reasonable advance notice of any such subsequent disclosure. Without limiting the generality of any of the foregoing, it is understood that the Parties or their Affiliates may make disclosure of this Agreement and the terms hereof in accordance with the rules and regulations of the SEC, other governmental authority, or securities exchange, may file this Agreement as an exhibit to any filing with the SEC, other governmental authority, or securities exchange, and may distribute any such disclosure or filing in the ordinary course of its business, provided, further, that to the maximum extent allowable by the rules and regulations of the SEC, other governmental authority, or securities exchange, and except as required by applicable Laws, Kinex and XPH shall seek to redact any confidential information set forth in such filings, and each Party shall provide a draft of the redacted version of this Agreement to the other Party no less than five (5) Business Days prior to disclosure or filing with the SEC, other governmental authority, or securities exchange, and give reasonable consideration to the other Party's comments regarding any proposed redaction.

8.3 Publications. XPH shall not submit for written or oral publication any manuscript, abstract or the like relating to the Compound or Licensed Products, without the prior approval or written request of Kinex. If XPH desires to submit such publication, it shall first deliver to Kinex, for Kinex's prior written consent, the proposed publication or an outline of the oral disclosure at least sixty (60) days prior to planned submission or presentation.

8.4 Publicity: Except as otherwise provided in this Agreement or required by law or regulation, no Party will originate any news release or other public announcement, written or oral, whether in the public press, stockholders' reports or otherwise, relating to this Agreement or to any sublicense under this Agreement, or to the performance under this Agreement or under any sublicense under this Agreement, without the prior written approval of the other Party, which approval will not be unreasonably withheld or delayed; provided that the foregoing shall not restrict disclosures made in connection with any filing of information or materials with a stock exchange or the SEC or any stockholders' letter to private investors on the condition that if the information is for investors, such investors agree to be bound by confidentiality obligations consistent with this Agreement.

ARTICLE 9

TERM AND TERMINATION

9.1 Term and Expiration. This Agreement shall be binding on the Parties as of the Effective Date. Thereafter, unless terminated earlier pursuant to Section 9.2 below, this Agreement shall extend for one (1) year which may expire on a country by country basis upon the earliest to occur of either (i) the expiration of the Kinex Patent Rights or (ii) invalidation of the Kinex Patent Rights (the "Agreement Term") unless either Party gives written notice of its intention not to extend the Agreement Term: (i) at least ninety (90) days prior to the expiration date of the Kinex Patent Rights; or (ii) as soon as practically possible in the case of an invalidation claim; and (iii) thereafter, at least ninety (90) days prior to the then current annual expiration date of the Agreement.

9.2 Early Termination of Agreement Term.

(a) This Agreement may be terminated upon mutual agreement of the Parties.

(b) Termination by XPH

XPH may terminate this Agreement in its sole discretion upon not less than six (6) months prior written notice of termination provided anytime after the Effective Date (provided, however, that no such termination shall be effective until the completion of any then Ongoing Clinical Studies). The cost involved during the six-months notice period plus any period needed for completion of any Ongoing Clinical Studies will also be borne by XPH. In addition, if any milestone is met XPH prior to the termination date, XPH will also be responsible for the milestone payment.

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(c) Termination by Either Party.

Either Party may, without prejudice to any other remedies available to it under this Agreement or at law or in equity, terminate this Agreement prior to expiration of the Agreement Term in the event that the other Party (as used in this subsection, the "Breaching Party") shall have materially breached or defaulted in the performance of any of its material obligations hereunder, and has not cured such breach within (i) thirty (30) days after notice of such breach is provided to the Breaching Party in case the breach is a non-payment of any amount due under this Agreement that is not being disputed in good faith or Kinex's failure to comply with 4.1 (both of which shall be deemed a material breach of a material obligation) and (ii) sixty (60) days after notice of such breach is provided to the Breaching Party for other cases of breach (or, if such default cannot be cured within such 60-day period, if the Breaching Party does not commence and diligently continue actions to cure such default during such 60-day period). The termination shall become effective at the end of the (i) 30-day period in case the breach is a non-payment of any amount due under this Agreement that is not being disputed in good faith or Kinex's failure to comply with 4.1 if the Breaching Party has not cured such breach by such date, or (ii) for other cases of breach, 60-day period unless (a) the Breaching Party cures such breach during such 60-day period, or (b) if such breach is not susceptible to cure within such 60-day period, the Breaching Party has commenced and is diligently pursuing a cure (unless such breach, by its nature, is incurable, in which case the Agreement may not be terminated unless the Breaching Party fails to use its best commercially reasonable efforts to prevent a similar subsequent breach). The right of either Kinex or XPH to terminate this Agreement as provided in this Section 9.2(c) shall not be affected in any way by such Party's waiver or failure to take action with respect to any previous breach or default.

9.3 Effect of Expiration or Termination; Survival.

(a) Expiration or termination of this Agreement shall not relieve the Parties of any obligation accruing prior to such expiration or termination, including all accrued payment obligations arising under Article 4 hereof. In addition to any other provisions of this Agreement which by their terms continue after the expiration of this Agreement, the provisions of Article 4.2(h), 7.1(a), 8 and 10 shall survive the expiration or termination of this Agreement and shall continue in effect after the date of expiration or termination unless otherwise expressly indicated to the contrary in this Agreement. In addition, any other provisions required interpreting and enforcing the Parties' rights and obligations under this Agreement shall also survive, but only to the extent required for the full observation and performance of this Agreement. Any expiration or early termination of this Agreement shall be without prejudice to the rights of any Party against the other accrued or accruing under this Agreement prior to termination. Except as expressly set forth herein, the rights to terminate as set forth herein shall be in addition to all other rights and remedies available under this Agreement, at law, or in equity, or otherwise.

(b) Payments of amounts owing to Kinex under this Agreement as of its expiration or termination shall be due and payable either (i) to the extent such amounts can be calculated and a fixed sum determined at the time of expiration or termination of this Agreement, thirty (30) days after the date of such expiration or termination, or (ii) to the extent such amounts cannot be calculated and a fixed sum determined at the time of expiration or termination of this Agreement, thirty (30) days after the date on which such amounts can be calculated and a fixed sum determined.

(c) Subject to the payment of all amounts required hereunder, XPH and its Affiliates and sublicensees shall have the right to sell or otherwise dispose of the stock of any Licensed Product subject to this Agreement on hand or in process of manufacture as of the expiration or termination of this Agreement. Within thirty (30) days after the effective date of termination or expiration of this Agreement, XPH shall notify Kinex of the amount of Licensed Product XPH, its Affiliates and sublicensees then have on hand or in the process of manufacture and shall have the right to sell in the Territory (except with respect to any country in the Territory in which Licensed Product has been withdrawn or there is no Regulatory Approval), its remaining stock of Licensed Product for a period ending upon the earlier of: (i) XPH's, its Affiliates' and sublicensees' sale of all such remaining Licensed Product, or (ii) six (6) months after such termination or expiration, and terms and conditions of this Agreement shall apply to such Licensed Product so sold. Kinex hereby grants a non-exclusive license under the Kinex Intellectual Property to XPH solely to sell such Licensed Product in the Territory, subject to payment of all related amounts due under this Agreement. Any remaining quantities of Licensed Product not sold during this period shall, at Kinex's election, either be destroyed by XPH at XPH's cost or sold to Kinex at XPH's procurement cost for such Licensed Product.

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(d) Upon the termination or expiration of this Agreement, the following shall also be applicable: (i) at Kinex's request, XPH shall promptly transfer and return to Kinex copies of all Data, reports, records and materials in XPH's possession or control that relate to Compound or Licensed Products and return to Kinex all relevant records and materials in XPH's possession or control containing Proprietary Information of Kinex (and provided however, Kinex shall, upon such transfer, pay to XPH reasonable fee for transferring any Data, reports, records and materials independently developed and discovered by XPH employees, agents, or other persons acting under or pursuant to XPH's authority, which fee shall not be less than the out-of-pocket fee incurred by XPH in the development and discovery of such Data, reports, records and materials; and provided further that XPH may keep one copy of such Proprietary Information of Kinex for archival purposes only); (ii) XPH shall transfer to Kinex any and all INDs, Regulatory Approvals, Drug Approval Applications and any other regulatory filings or submissions made or filed for Licensed Product by XPH or its designees; and (iii) Kinex shall promptly return to XPH all relevant records and materials in Kinex's possession or control containing Proprietary Information of XPH (provided that Kinex may keep one copy of such Proprietary Information of XPH for archival purposes only).

ARTICLE 10

INDEMNIFICATION AND INSURANCE

10.1 Indemnity. For purposes of this Article 10, "Kinex Indemnified Parties" refers to Kinex, its Affiliates and the officers, directors, employees, shareholders, agents and successors and assigns of Kinex and its Affiliates, and "XPH Indemnified Parties" refers to XPH, its Affiliates and officers, directors, employees, shareholders, agents and successors and assigns of XPH and its Affiliates.

10.2 XPH Indemnification. XPH shall defend the Kinex Indemnified Parties from and against all suits, claims, actions, demands, complaints, lawsuits or other proceedings, (collectively, "Claims"), that are brought by a Third Party, and shall indemnify and hold harmless to the fullest extent permitted by law the Kinex Indemnified Parties from and against any and all Losses, that arise out of or are attributable to, (i) XPH's negligence, recklessness or willful misconduct in exercising or performing any of its rights or obligations under this Agreement; or (ii) a material breach by XPH of any of its obligations, representations, warranties or covenants under this Agreement; provided, however, that XPH shall not be obligated under this Section 10.2, to the extent it is shown by evidence acceptable in a court of law having jurisdiction over the subject matter and meeting the appropriate degree of proof for such Claim that the Claim arose out of the negligence or wrongdoing on the part of Kinex.

10.3 Kinex Indemnification. Kinex shall defend the XPH Indemnified Parties from and against all Claims, in each case that are brought by a Third Party, and shall indemnify and hold harmless to the fullest extent permitted by law the XPH Indemnified Parties from and against any and all Losses that arise out of such Claims that are attributable to, (i) Kinex's negligence, recklessness or willful misconduct in exercising or performing any of its rights or obligations under this Agreement; or (ii) a material breach by Kinex of any of its obligations, representations, warranties or covenants under this Agreement; provided, however, that Kinex shall not be obligated under this Section 10.3, to the extent it is shown by evidence acceptable in a court of law having jurisdiction over the subject matter and meeting the appropriate degree of proof for such Claim that the Claim arose out of the negligence or wrongdoing on the part of XPH.

10.4 Indemnification Procedure.

(a) Each Party shall promptly notify the other Party in writing of any Claim. Concurrent with the provision of notice pursuant to this Section 10.4(a), the Indemnified Party shall provide to the other Party copies of any complaint, summons, subpoena or other court filings or correspondence related to such Claim and will give such other information with respect thereto as the other Party shall reasonably request. The Indemnifying Party and Indemnified Party shall meet to discuss how to respond to such Claim. Failure to provide prompt notice shall not relieve any Party of the duty to defend or indemnify unless such failure materially prejudices the defense of any matter. Each Party agrees that it will take reasonable steps to minimize the burdens of the litigation on witnesses and on the ongoing business of the Indemnified Parties including making reasonable accommodations to witnesses' schedules when possible and seeking appropriate protective orders limiting the duration and/or location of depositions.

(b) Should either Party dispute that any Claim or portion of a Claim ("Disputed Claim") of which it receives notice pursuant to Section 10.4(a), is an indemnified Claim, it shall so notify the other Party providing written notice in sufficient time to permit such other Party to retain counsel and timely appear, answer and/or move in any such action. In such event, such other Party shall defend against such Claim; provided, however, that such other Party shall not settle any Claim which it contends is an indemnified Claim without providing the Indemnifying Party ten (10) Business Days' notice prior to any such settlement and an opportunity to assume the defense and indemnification of such Claim pursuant to this Agreement. If it is determined that a Disputed Claim is subject to indemnification, the Indemnifying Party will reimburse the costs and expenses, including reasonable attorneys' fees, of the Indemnified Party.

10.5 Settlement of Indemnified Claims. The Indemnifying Party under Sections 10.2 or 10.3, as applicable, shall have the sole authority to settle any Indemnified Claim without the consent of the other Party, provided, however, that an Indemnifying Party shall not, without the written consent of the other Party, as part of any settlement or compromise (i) admit to liability on the part of the other Party; (ii) agree to an injunction against the other Party; or (iii) settle any matter in a manner that separately apportions fault to the other Party. The Parties further agree that as part of the settlement of any Indemnified Claim, an Indemnifying Party shall obtain a full, complete and unconditional release from the claimant on behalf of the Indemnified Parties.

10.6 Insurance.

(a) XPH shall, based on the operation necessity and the regulatory requirement applicable including the appropriate liability and insurance policy in the Territory, maintain in the Territory, commencing as of the Effective Date, commercial general liability insurance (including coverage for product liability, contractual liability, bodily injury, property damage and personal injury), when such Clinical Studies are being conducted (the "Insurance") If such Insurance is written on a claims-made form, it shall continue for three (3) years following the last sale of Licensed Product by XPH. The Insurance shall have retroactive date to or coinciding with the Effective Date. Notwithstanding the foregoing, XPH may satisfy the foregoing obligation with respect to the Insurance through self-insurance.

(b) Such Insurance shall insure against all liability arising out of the manufacture, use, sale, distribution, or marketing of Licensed Product in and for the Territory. During the Agreement Term, XPH shall not permit such Insurance to be reduced, expired, materially amended or canceled during the period of the Insurance and/or the Agreement without reasonable prior written notice that shall be sent by registered mail to Kinex. Upon request XPH shall provide certificates of insurance to Kinex evidencing the coverage specified herein.

(c) Except as expressly stated herein, a Party's liability to the other is in no way limited to the extent of the Party's insurance coverage.

(d) The Insurance shall contain an explicit clause, stating that each Party and its insurer waive their rights of subrogation against the other Party and its directors, employees and/or any one on its behalf with respect to the Insurance. Such waiver shall not apply in the event of a malicious act.

(e) The Insurance shall be primary to any other insurance maintained by each Party and each Party hereby waives any claim or demand as to participation in any such other insurance.

(f) The Insurance shall be valid in any location worldwide regarding the activities performed by each Party hereunder (including worldwide jurisdictions) for any destination or lawsuit which will be served against the other Party.

10.7 Limitation of Liability. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER OR ANY OF ITS AFFILIATES FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING LOST PROFITS, BUSINESS OR GOODWILL) SUFFERED OR INCURRED BY SUCH OTHER PARTY OR ITS AFFILIATES, WHETHER BASED UPON A CLAIM OR ACTION OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT, OR OTHERWISE, ARISING OUT OF THIS AGREEMENT. THE FOREGOING SENTENCE SHALL NOT LIMIT THE OBLIGATIONS OF EITHER PARTY TO INDEMNIFY THE OTHER PARTY FROM AND AGAINST THIRD PARTY CLAIMS UNDER THIS ARTICLE

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ARTICLE 11

MISCELLANEOUS

11.1 Force Majeure. Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached the Agreement for failure or delay in fulfilling or performing any term of the Agreement during the period of time when such failure or delay is caused by or results from events beyond the reasonable control of a Party, including fire, flood, earthquake, explosion, storm, blockage, embargo, war, acts of war (whether war be declared or not), terrorism, insurrection, riot, civil commotion, strike, lockout or other labor disturbance, failure of public utilities or common carriers, act of God or act, omission or delay in acting by any governmental authority or the other Party. The affected Party shall notify the other Party of such force majeure circumstances as soon as reasonably practicable.

11.2 Assignment. The Agreement may not be assigned or otherwise transferred without the prior written consent of the other Party; provided, however, that either Party may assign this Agreement to an Affiliate or in connection with the transfer or sale of its business or all or substantially all of its assets or in the event of a merger, consolidation, change in control or similar corporate transaction or, with respect to Kinex, the sale of all or substantially all its rights in the Compound, without such consent; provided further, that such assignment shall not relieve the Party of its responsibilities for performance of its obligations under this Agreement. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties. Any assignment not in accordance with this Agreement shall be void.

11.3 Severability. In the event that any of the provisions contained in this Agreement are held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby, unless the absence of the invalidated provision(s) adversely affects the substantive rights of the Parties. In such event, the Parties covenant and agree to renegotiate any such term, covenant or application thereof in good faith in order to provide a reasonably acceptable alternative to the term, covenant or condition of this Agreement or the application thereof that is invalid or unenforceable, it being the intent of the Parties that the basic purposes of this Agreement are to be effectuated.

11.4 Notices.

(a) Correspondence, reports, documentation, and any other communication in writing between the Parties in the course of ordinary implementation of this Agreement (but not including any notice required by this Agreement) shall be in writing and delivered by hand, sent by email, or by overnight express mail (*e.g.*, FedEx) to any one (1) representative designated by the Party which is to receive such written communication.

(b) Extraordinary notices and communications (including but not limited to notices of termination, force majeure, material breach, change of address, or any other notices required by this Agreement) shall be in writing and shall be deemed to have been given when delivered in person, or sent by overnight courier service (*e.g.*, FedEx), postage prepaid, or by facsimile confirmed by prepaid registered or certified air mail letter or by overnight express mail (*e.g.*, FedEx), or sent by prepaid certified or registered air mail, return receipt requested, to the following addresses of the Parties (or to such other address or addresses as may be specified from time to time in a written notice), and shall be deemed to have been properly served to the addressee upon receipt of such written communication, to the following addresses of the Parties:

if to Kinex to:

KINEX PHARMACEUTICALS, LLC

701 Ellicott Street

Buffalo, New York 14203

USA

Attention: Chief Executive Officer

Fax No.: 716-849-6651

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if to XPH to:

GUANGZHOU XIANGXUE NEW DRUG DISCOVERY AND

DEVELOPMENT COMPANY LIMITED

2 Jinfengyuan RoadGuangzhou,

CHINA 510663

Attention: CEO

Fax No.: 86-20-22211666

or to such other address as the Party to whom notice is to be given may have furnished to the other Parties in writing in accordance herewith. Any such communication shall be deemed to have been given when delivered if personally delivered or sent by facsimile on a Business Day, upon confirmed delivery by nationally-recognized overnight courier if so delivered, and on the third Business Day following the date of mailing if sent by registered or certified mail.

11.5 Specific Performance. Each of the Parties acknowledges and agrees that the other Party may suffer irreparable and continuing damage for which there is no adequate remedy at law in the event of a breach or threatened breach of this Agreement. Accordingly, and notwithstanding anything herein to the contrary, each of the Parties agrees that the other Party shall be entitled to seek injunctive relief to prevent breaches of the provisions of this Agreement, and/or to enforce specifically this Agreement and the terms and provisions hereof, in any action instituted in any court or tribunal having jurisdiction over the Parties and the matter, without posting any bond or other security, and that such injunctive relief shall be in addition to any other remedies to which such Party may be entitled, at law or in equity.

11.6 Further Assurances. Each of the Parties shall take such further actions as shall be necessary or desirable in order to effectuate the respective rights and obligations hereunder.

11.7 Applicable Law, Venue and Dispute Resolution. This Agreement shall be governed by the laws of the State of New York without regard to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply in any action, suit or proceeding arising out of or relating to this Agreement. Except as provide in Section 11.5, with regard to actions of specific performance, all disputes which arise in connection with this Agreement and its interpretation shall be settled amicably between the Parties. If the dispute cannot be settled in an amicable manner, it will be settled by arbitration to be held in Hong Kong in conformity with commercial arbitration rules of the International Chamber of Commerce. The award rendered by arbitration shall be final and binding upon the Parties hereto.

11.8 Entire Agreement. This Agreement, including the exhibits and schedules hereto, contains the entire understanding of the Parties with respect to the subject matter. All express or implied agreements and understandings, either oral or written, heretofore made, including any offering letters, letters of intent, or term sheets, are expressly superseded by this Agreement. This Agreement may be amended, or any term hereof modified, only by a written instrument duly executed by all Parties hereto.

11.9 Independent Contractors. It is expressly agreed that the Parties shall be independent contractors and that the relationship between the Parties shall not constitute a partnership, joint venture or agency. Neither Party shall have the authority to make any statements, representations or commitments of any kind, or to take any action, which shall be binding on the other Party, without the prior consent of such other Party.

11.10 Waiver. The waiver by a Party hereto of any right hereunder or the failure to perform or of a breach by another Party shall not be deemed a waiver of any other right hereunder or of any other breach or failure by said other Party whether of a similar nature or otherwise.

11.11 Headings; References. The captions to the several Articles and Sections hereof are not a part of the Agreement, but are merely guides or labels to assist in locating and reading the several Articles and Sections hereof. Any reference in this Agreement to an Article, Exhibit, Schedule or Section shall, unless otherwise specifically provided, be to an Article, Exhibit, Schedule or Section of this Agreement. The words “including”, “includes” and “such as” are used in their non-limiting sense and have the same meaning as “including without limitation” and “including but not limited to.” “Hereunder” and “hereto” means under or pursuant to any provision of this Agreement.

******* = **Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

11.12 Interpretation. Both Parties have had the opportunity to have this Agreement reviewed by an attorney; therefore, neither this Agreement nor any provision hereof shall be construed against the drafter of this Agreement.

11.13 Counterparts. The Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures to the Agreement transmitted by fax, by email in "portable document format" ("pdf") or by any other electronic means intended to preserve the original graphic and pictorial appearance of the Agreement shall have the same effect as physical delivery of the paper document bearing an original signature.

11.14 No Third Party Beneficiaries. Except as specifically set forth herein, none of the provisions of this Agreement shall be for the benefit of or enforceable by any Third Party, including any creditor of either Party hereto. No such Third Party shall obtain any right under any provision of this Agreement or shall by reasons of any such provision make any claim in respect of any debt, liability or obligation (or otherwise) against either Party hereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

KINEX PHARMACEUTICALS, LLC

By: /s/ Johnson YN Lau
Name: Johnson YN Lau, MBBS, MD, FRCP
Title: Chairman and CEO

GUANGZHOU XIANGXUE NEW DRUG DISCOVERY

AND DEVELOPMENT COMPANY LIMITED

By: /s/ YongHui Wang
Name: YongHui Wang
Title: Chairman

***** = Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

SCHEDULE 1.1 DIAGRAM OF COMPOUND

SCHEDULE 1.2 KINEX PATENT RIGHTS

***** = Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

SCHEDULE 1.1
DIAGRAM OF COMPOUND

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***** = Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

SCHEDULE 1.2
PATENT RIGHTS

Kinex Patent Chart KX02
(March 21, 2012)

(1a) 28856-503 (Composition of Matter & Use)

Country Code	Country	Status	Application No.	Application Data	National Entry Data	Related WIPO Publication No.	Comments	Expected Expiration Date
***	***	***	***	***	***	***	***	***
***	***	***	***	***	***		***	***
***	***	***	***	***	***		***	***
***	***	***						

(1b) 28856-503CIP (Composition of Matter & Use)

Country Code	Country	Status	Application No.	Application Data	National Entry Data	Related WIPO Publication No.	Comments	Expected Expiration Date
***	***	***	***	***	***	***	***	***
***	***	***						
***	***	***						
***	***	***	***	***	***		***	***

(1c) 28856-503003 (Use)

Country Code	Country	Status	Application No.	Application Data	National Entry Data	Related WIPO Publication No.	Comments	Expected Expiration Date
***	***	***				***	***	
***	***	***						
***	***	***						
***	***	***						

(1c) 28856-516 (Dosage of KX02 and immunoprotection)

Country Code	Country	Status	Application No.	Application Data	National Entry Data	Related WIPO Publication No.	Comments	Expected Expiration Date
***	***	***			***	***	***	***
***	***	***			***			***
***	***	***			***			***
***	***	***						

***** = Portions of this exhibit have been omitted pursuant to a request for confidential treatment. An unredacted version of this exhibit has been filed separately with the Commission.**

Exhibit 31.1

CERTIFICATION PURSUANT TO
SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002

I, Johnson Y.N. Lau, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Athenex, Inc. (the registrant);

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 7, 2020

/s/ Johnson Y.N. Lau
Name: Johnson Y.N. Lau
Title: Chief Executive Officer and Board Chairman
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION PURSUANT TO
SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002

I, Randoll Sze, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Athenex, Inc. (the registrant);

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 7, 2020

/s/ Randoll Sze
Name: Randoll Sze
Title: Chief Financial Officer
(Principal Financial and Accounting 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 accordance with 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, Johnson Y.N. Lau, Chief Executive Officer and Board Chairman (Principal Executive Officer) of Athenex, Inc. (the "registrant"), and Randoll Sze, Chief Financial Officer of the registrant (Principal Financial and Accounting Officer), each hereby certifies that, to the best of their knowledge:

1. The registrant's Quarterly Report on Form 10-Q for the period ended March 31, 2020, to which this Certification is attached as Exhibit 32.1 (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition of the registrant at the end of the period covered by the Report and results of operations of the registrant for the period covered by the Report.

Date: May 7, 2020

/s/ Johnson Y.N. Lau
Name: Johnson Y.N. Lau
Title: Chief Executive Officer and Board Chairman
(Principal Executive Officer)

/s/ Randoll Sze
Name: Randoll Sze
Title: Chief Financial Officer
(Principal Financial and Accounting Officer)